

COURT OF APPEAL FOR ONTARIO

B E T W E E N:

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LEWIS, ASHLEY MACDONALD, COREY MONAHAN, MISTY MARSHALL, SHERRI
OGDEN, JAHMAL PIERRE, and LINSLEY GREAVES**

Appellants

- and -

CITY OF HAMILTON

Respondent

APPELLANTS' APPEAL BOOK AND COMPENDIUM – VOLUME 2

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TAB 22

This By-law is a consolidated version and includes amendments made by the amending by-laws listed on the following page. This consolidation is prepared for purposes of convenience only and is not the official or legal version of the By-law. For accurate reference to the By-law, certified copies should be obtained through the City Clerk's Office.

Consolidation Update: June 15, 2022

CITY OF HAMILTON

By-law No. 01-219

A By-law To Manage and Regulate Municipal Parks

OFFICE CONSOLIDATION

**A By-law To Manage and Regulate Municipal Parks
Consolidation By-law No. 01-219**

Incorporating amendments made by:

By-Law No: Effective Date:

03-209	July 23, 2003	Amend Section 1 (i) Director definition Amend Section 1 (r) Amend Section 51 Amend Section 53 to add 53 (6)
05-099	April 27, 2005	Delete subsections (j) and (k) of Section 1 and add definition for "General Manager" and "Leash Free Park" Amend Section 3 Amend Section 6 Amend Section 8, subsections (a), (b), (c), (d), (e) and (f) Amend Section 9, subsection (d) Amend Section 10 Amend Section 12 Amend Section 13 Amend Section 14 Amend Section 15 Amend Section 29 Amend Section 32, subsections (2) and (8) Amend Section 33, subsection (1) Amend Section 35 Amend Section 40, subsection (3) and (4) Amend Section 41, subsection (2) Amend Section 43, subsection (b) and (d) Amend Section 44, subsection (2) and (3) Amend Section 45 Amend Section 48 Amend Section 52, subsection (2)(b) Amend Section 56 Amend Schedule B Amend Schedule C
08-065	March 26, 2008	Update to provide for Operation of Segway Personal Transporters in Municipal Parks Amend Section 1, definition "persons with disabilities" and "disabled person" Amend Section 30, subsection (2)
09-179	August 13, 2009	Add to Section 1 (i) Filming event definition Amend Section 46 Amend Section 56 Delete Schedule "B"

20-169	August 21, 2020	<p>Update to City of Hamilton By-law No. 01-219, being a By-law to Manage and Regulate Municipal Parks, and Administrative Penalty By-law No. 17-225 to create Special Enforcement Areas Ward: 13</p> <p>Add Section 32 subsections (13), (14), (15), (16), (17) and (18)</p> <p>Add to Section 56, Schedule "D" – Special Enforcement Areas</p> <p>Add Schedule D, "Schedule "D" – Special Enforcement Areas</p>
20-271	December 16, 2020	<p>Update to explicitly prohibit electric kick-scooters ("E-Scooters") in Hamilton parks except in designated areas and to provide regulations for their permitted use and to Amend By-law No. 17-225, Being a By-law to Establish a System of Administrative Penalties, Table 12 – By-law No. 01-219 To Manage and Regulate Municipal Parks Ward: City Wide</p> <p>Add to Section 1, definition for "E-Scooter:</p> <p>Amend definition for "motorized recreational vehicle"</p> <p>Amend Section 30 (2)</p> <p>Add Section 34.1 "E-Scooters"</p>
22-118	May 25, 2022	Amend Section 13

City of Hamilton BY-LAW NO. 01-219**TO MANAGE AND REGULATE MUNICIPAL PARKS**

WHEREAS Section 191(1) of the Municipal Act, R.S.O. 1990, Chapter M.45, as amended, provides that the council of every corporation may pass by-laws for acquiring land for the purposes of the corporation and for erecting and repairing buildings thereon and for making additions to or alterations of such buildings;

AND WHEREAS Section 191(6) of the Municipal Act provides that the council of every corporation may pass by-laws providing for the use by the public of lands of which the corporation is the owner and for the regulation of such use and the protection of such lands;

AND WHEREAS the City of Hamilton may exercise all or any of the powers that are conferred on Boards of Park Management by the Public Parks Act, R.S.O. 1990, Chapter P.46, as amended, pursuant to Section 207, paragraph 52 of the Municipal Act;

AND WHEREAS Section 207(42) of the Municipal Act, provides for the prohibition of vehicles from sidewalks, pathways or footpaths in Parks;

AND WHEREAS the City of Hamilton Act, 1999, S.O. 1999 Chapter 14, Schedule C did incorporate, as of January 1st, 2001, the municipality "City of Hamilton";

AND WHEREAS the City of Hamilton is the successor to the following former area municipalities, namely: The Corporation of the Town of Ancaster; The Corporation of the Town of Dundas; The Corporation of the Town of Flamborough; The Corporation of the Township of Glanbrook; The Corporation of the City of Hamilton; and the Corporation of the City of Stoney Creek; all hereinafter referred to as the "former area municipalities";

AND WHEREAS the City of Hamilton Act, 1999, provides that the By-laws of the former area municipalities continue in force and effect in the City of Hamilton until subsequently amended or repealed by the Council of the City of Hamilton;

AND WHEREAS the Council of the City of Hamilton deems it expedient to enact a single by-law to provide for the maintenance, operation, management and regulation of Municipal Parks, in place of by-laws of the former area municipalities;

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

PART I - DEFINITIONS AND APPLICATION

Definitions

1. In This By-law,
 - (a) "Authorized Emergency Vehicle" means:
 - (i) any vehicle owned or operated by the City of Hamilton while the operator is engaged in the performance of his or her duties;
 - (ii) any vehicle owned or operated by a Police Service, a Fire Department or a Ministry of the Province;
 - (iii) any vehicle owned or operated by an ambulance service, a mortuary or a funeral home while the operator is engaged in the performance of his or her duties;
 - (iv) any vehicle owned or operated by a public utility including but not limited to vehicles owned or operated by Canada Post, a telephone company, a natural gas utility, a hydro electric power provider, and any other public utility, telegraph or telecommunications company, provided that such vehicles are each clearly identified by a crest or other marking and provided the operator is actively engaged in the provision of the services offered by the utility;
 - (v) any service vehicle owned or operated by an accredited road side service agency or automobile club or a licensed towing agency while the operator is providing a towing or other emergency roadside service.
 - (b) "authorized sign" means any sign, notice, or other device placed or erected in or upon a Park under the authority of this By-law;
 - (c) "bicycle" includes a tricycle, a unicycle and a bicycle to which a trailer device designed for the purpose of conveying children is attached, but does not include a motor assisted bicycle;
 - (d) "City" means the City of Hamilton;
 - (e) "control" includes care and custody;
 - (f) "Council" means the council of the Corporation of the City of Hamilton;

- (g) "commercial motor vehicle" means a Motor Vehicle having attached to it a truck or delivery body or unit;
- (h) "designated area" means any area defined, set aside or constructed for a specific use which may include posted conditions;
- (i) "filming event" means filming, videotaping, photography or any other form of visual recording for a feature film, television film, television program, documentary, commercial, music video, educational film or other purpose outside a studio or film laboratory, but does not include street interviews, newscasts, press conferences or visual recordings for personal purposes only;
- (j) "Director" means the Director or Acting Director of Operations and Maintenance for the City and includes his designate and successor or the Director or Acting Director of any other City project on lands referred to in ss. 1 (r) of City of Hamilton By-Law No. 01-219 as amended;
- (k) "E-Scooter" means a vehicle that has,
 - (a) two wheels placed along the same longitudinal axis, one placed at the front of the e-scooter and one at the rear,
 - (b) a platform for standing between the two wheels,
 - (c) a steering handlebar that acts directly on the steerable wheel, and
 - (d) an electric motor not exceeding 500 watts that provides a maximum speed of 24 kilometres per hour;
- (l) "General Manager" means the General Manager of the Public Works Department for the City of Hamilton and includes his or her designate or designates and successor;
- (m) "Leash Free Park" means a park, or a designated area within a park, or a public open space set aside as an area where dogs are not required to be leashed or otherwise restrained;
- (n) "motor vehicle" means a snowmobile, go-cart, trail bike, mini bike, all-terrain vehicle, or similar vehicle, or E-Scooter, or similar vehicle, propelled or driven by an internal combustion engine, battery, or other form of power, other than muscular power;
- (o) "motorized recreational vehicle" means a snowmobile, go-cart, trail bike, mini bike, all-terrain vehicle, or similar vehicle, propelled or driven by an internal combustion engine;
- (p) "organized sport or activity" means a sport, game or activity pre-planned by a group or organization whether or not formally constituted and whether or not the players or members wear uniforms;

- (q) "permit" means any written authorization of Council, a committee established by Council, or the General Manager or the Director where such authority has been delegated by Council;
- (r) "post" or "posted" refers to the erection or presence of permissive, regulatory, restrictive, warning, or prohibitive signs;
- (s) "posted area" means an area where such signs are erected;
- (t) "park" means any land, and land covered by water and all portions thereof owned by or made available by lease, agreement, or otherwise to the City, that is or hereafter may be established, dedicated, set apart or made available for use as a public open space or golf course, and that has been or hereafter may be placed under the jurisdiction of the Director including any and all buildings, structures, facilities, erections, and improvements located in or on such land, save and except where such land is governed by other by-laws of the City. For greater certainty, the provisions of By-Law No. 01-219, as amended, shall be deemed to apply to all open space lands, including road allowances shown on a registered plan of subdivision, required for the Red Hill Valley Project, until such time as the City declares otherwise.
- (u) "persons with disabilities" and "disabled person" includes any person who is blind, or a person who has any degree of physical disability, which requires the physical reliance upon a wheelchair, crutches, braces, canes, or other similar remedial appliance or device, or who are authorized users of Segway Personal Transporters, or requires the reliance upon an animal trained to provide guidance or other form of assistance;
- (v) "public parking area" or "parking space" means any area of the Park which has been set aside and designated by the City for the parking of vehicles and where there is an authorized sign indicating said designation or otherwise regulating said parking;
- (w) "residence" means a place that is actually occupied or used as a residential building;
- (x) "roadway" means that part of a Park that is set aside and improved for the use of vehicular traffic;
- (y) "vehicle" includes a Motor Vehicle as defined under the Highway Traffic Act, and includes any bicycle, carriage, wagon, sleigh or other vehicle or conveyance of every description, whatever the mode of power, but excludes a wheelchair or similar device, powered or otherwise, used by an individual due to disability, baby carriage or cart, child's wagon, child's stroller, child's sleigh or other conveyance of a like nature;
- (z) "watercraft" means any device for conveyance in or on water and includes but is not limited to powerboats, rowboats, sailboats, sailboards, canoes,

kayaks, or dinghies.

2. (1) In this By-law, whenever a word imparts the masculine gender it is deemed to include the feminine gender.
- (2) In this By-law, the singular sense is deemed to be inclusive and interchangeable with the plural sense.
- (3) This By-law is subject to the provisions of any by-law of the City regulating the control of dogs or other animals.

PART II - USE OF FACILITIES

Hours of Entrance

3. (1) No person shall enter into or be in any park, except during the times the park is open to the public or during such times as otherwise expressly authorized by permit.
- (2) A park shall only be open to the public:
 - (a) where there is displayed at, within or adjacent to a park a posted sign or notice as to the times such park is open to the public, during the times so indicated on such sign or notice; or
 - (b) in the absence of a posted sign or notice as referred to in subsection 3(2)(a), a park shall only be open to the public each day from six o'clock in the forenoon (6:00 a.m.) until eleven o'clock in the afternoon (11:00 p.m.).

Restricted Areas

4. While in a park, no person shall enter into areas posted to prohibit or restrict admission of the public.

Conduct

5. While in a park, no person shall:
 - (a) indulge in any riotous, violent, threatening, or illegal conduct or use profane or abusive language;
 - (b) cast, throw, or in any way propel any object in such a manner as may or does endanger or cause injury or damage to any person or property;
 - (c) spy, accost, frighten, annoy or otherwise disturb other persons; or
 - (d) create a nuisance or in any way interfere with the peaceful enjoyment of the

park by other persons

Firearms and Weapons

6. While in a park, no person shall be in possession of or use any firearm, air gun, bow and arrow, axe or offensive weapon of any kind unless expressly authorized by permit, provided that this prohibition shall not apply to a Police Officer, an employee of the City, or such other persons as are providing contractual services to the City requiring the use of such weapons, while engaged in the performance of their duties.

Fireworks

7. While in a park, no person shall ignite, discharge or set off any firecrackers, rockets, or other fireworks except as a fireworks display authorized by permit. For the purpose of this section, "fireworks" includes any explosive, flammable, combustible or incendiary device or material.

Injury and Damage

8. No person shall, in any park, unless expressly authorized by permit:
 - (a) climb or descend any natural formation, including but not limited to a cliff, precipice, rock face, overhang, or gorge, or any building, structure or equipment, unless such equipment or structure is specifically created, designed or erected for the purpose of climbing;
 - (b) break, injure, deface, move or remove the whole or any part of any flowers, plant material, trees or other vegetation or any building, structure, equipment or other property of the City;
 - (c) move, remove, excavate, disturb, alter, damage, or cause the deterioration or erosion of, the whole or any part of rocks, boulders, rock faces, soil, sand, wood, or like substance, or any other property or thing;
 - (d) in any manner, disturb ground which is under repair, prepared for planting, has been newly seeded or sodded, or is in an area posted to that effect;
 - (e) conduct archaeological research, or remove any relic, artifact or natural object;
 - (f) drive, park or walk in any area posted to prohibit same.

Waste and Pollution

9. No person shall in any park:

- (a) subject to (b) and (c) herein, dispose of or dump garbage, litter, tree trimmings, refuse or any other matter or thing, except that which is generated through the normal use of the park, and shall only deposit same in receptacles provided for such purpose;
- (b) dispose of or dump garden refuse except in a designated area therefore;
- (c) unless authorized by permit, dump or deposit snow, fill, soil, building or construction materials;
- (d) dispose of, cause the release of, dump, drain or discharge any material or substance, whether solid or liquid and whether toxic, hazardous (as defined by the *Environmental Act*, R.S.O. 1990, as amended) or otherwise, on or into any soil or the waters of any pool, pond, lake, stream, fountain or watercourse, regardless of the place of origin and the means of transmission or transportation of said material or substance, unless expressly authorized by permit;
- (e) release any balloons, except in accordance with Schedule "A".

Protection of Wildlife

- 10. While in any park, unless expressly authorized by permit, no person shall:
 - (a) subject to the provisions of Section 22, kill, attempt to kill, maim, injure, trap, remove or disturb any animal, bird, waterfowl, worm, or other wildlife; or
 - (b) touch, disturb, injure or remove any nest, or any egg therefrom;
 unless authorized in writing by the Director.

Animal and Fish Displays

- 11. While in any park, no person shall:
 - (a) feed or attempt to feed any wild bird or fish or any bird or fish owned by or under the control of the City unless posted otherwise;
 - (b) throw, deposit, place or attempt to throw, material of any kind whatsoever in any area where birds or fish are kept for public display; or
 - (c) kill, attempt to kill, maim or in any way injure or molest any bird, waterfowl or fish that is kept for public display.

Encroachment

- 12.
 - (a) Unless expressly authorized by permit, no person shall encroach upon or take possession of any park, or any part or area within a park, by any means

whatsoever, including but not limited to the placing, construction, installation or maintenance of any fence, structure or other thing, the dumping or storage of any materials, or by planting any plant or otherwise cultivating, grooming or landscaping any part of the grounds thereof;

- (b) Where the Director determines that an encroachment upon a part or area of a park will be reasonable in the circumstances and will not be detrimental to the interests of the City, the Director may authorize by permit an encroachment upon a part or area of a park, upon such terms and conditions as the Director may deem appropriate in the circumstances, and may take or require to be taken such measures or actions as the Director deems reasonable to ensure that any authorized encroachments are and continue to be satisfactory to the City;
- (c) The Director is authorized to remove or cause to be removed, and to dispose of or cause to be disposed of, any unauthorized or no longer authorized encroachment from any park by any means and in any manner whatsoever, as the Director may, in the exercise of an absolute discretion, deem appropriate in the circumstances, including but not limited to the issuance of an order to remove an encroachment against the person or persons responsible for the encroachment.
- (d) No person, responsible for an authorized encroachment, shall fail to comply with the terms and conditions of the permit authorizing such encroachment
- (e) No person responsible for an encroachment shall fail to remove an encroachment, when directed or ordered by the Director, where such encroachment is not authorized or no longer authorized by permit.
- (f) In the event that a person or persons, against whom an order to remove an encroachment from a park has been made or issued by the Director, fails to comply with said order within the time indicated on the order, the Director may cause the encroachment to be removed and disposed of, all at the expense of such person or persons and the amount of such expense may be recovered by the City by action or may be added by the City Clerk to the collector's roll against any lands within the City of Hamilton owned by such person or persons and collected in a like manner as municipal taxes.

Alcohol and Gambling

13. While in a park:

- (1) No person shall be in possession of, consume, serve or sell alcoholic beverages unless authorized by a permit issued by the City and with the approval of the Liquor Licence Board of Ontario.
- (2) Any person who serves or sells alcoholic beverages in a park pursuant to a permit issued by the City, shall obtain sufficient insurance to conform with

current Council policy respecting liability insurance, and naming the City as an insured party and shall comply with all other terms and conditions of the permit.

- (3) No person shall play or bet at or against any game conducted, dealt or carried on with cards, dice or other devices for money, chips, shells, credit or other thing representative or value, or maintain or inhabit any gambling table or other instrument of gambling or gaming; unless otherwise authorized by the Director.

Campfires and Barbecues

- 14. While in any park, unless expressly authorized by permit or in a permitted area designated by posted signs, no person shall;
 - (a) light, build or stoke an open fire or bonfire or move, alter, or expand authorized fire pit locations;
 - (b) use any solid, liquid or gas fuelled portable barbecue, and, under no circumstances shall the fuel tank, cylinder or container for use with a liquid or gas fuelled barbecue exceed twenty (20) pounds capacity;
 - (c) use fuel other than charcoal or briquettes in any stationary barbecue; or,
 - (d) leave a barbecue or fire unattended without first extinguishing the barbecue or fire and ensuring that any remaining embers, coals, ashes or other residue, are fully extinguished and cold.

Organized Gatherings, Picnics, and Group Photography

- 15. Unless expressly authorized by permit, no person while in any park shall:
 - (a) hold a picnic, public meeting, or other organized gathering or event of more than twenty persons; or
 - (b) interfere with a picnic, organized gathering or event authorized by permit; or
 - (c) engage in group photography involving more than ten persons.

Amplifiers and Loud Speakers

- 16. Unless authorized by permit, no person shall operate loud speakers or amplifying equipment in any park, provided that this shall not prohibit the use of a portable radio, tape player or compact disk player, in a manner which does not disturb any other person or otherwise interfere with any other person's enjoyment of the park.

Camping and Lodging

- 17. Unless authorized by permit, no person shall dwell, camp or lodge in any park.

Tents and Structures

18. Unless authorized by permit, no person shall place, install or erect any temporary or permanent tent or structure in any park.

Bathing, Swimming and Sun Bathing

19. No person shall in any park:
- (a) enter any public swimming pool, except at times designated for swimming;
 - (b) in, or adjacent to, any swimming pool, fail to abide by posted signs or fail to obey the instructions of any lifeguard or other authorized person;
 - (c) swim, bathe or wade in any fountain, pond, water course, lake or stream, except in a designated swimming, wading or bathing area;
 - (d) utilize facilities without being properly attired, including appropriate swimwear or beach clothing;
 - (e) dress or undress adjacent to any swimming wading or bathing area except in facilities provided for such purpose; or,
 - (f) bring into any swimming, wading or bathing area and the waters attendant thereto any underwater spear or shooting device or any other weapon.

Use of Wash and Change Rooms

- 20.
- (1) No person shall enter any washroom, change-room, bathhouse or bathing station, or portion thereof, in any park, set apart for the opposite sex provided that this shall not apply to children who are 12 years of age or younger and who are, at that time, under the care of a parent or guardian.
 - (2) No person shall loiter in any washroom, change-room, bathhouse or bathing station, in any park, or conduct themselves in such a manner as to be objectionable to another person using, or in the vicinity of, said washroom, change-room, bathhouse or bathing station.

PART III - GAMES AND SPORTS

Sports or Activities

21. (1) While in any park, no person shall:
- (a) arrange or engage in an organized sport or activity, unless authorized by permit; or

- (b) interfere with an organized sport or activity authorized by permit.
- (2) In addition to the prohibitions set out in subsection (1), while in any park, no person shall utilize a designated area without a permit where same is posted to prohibit or restrict such use.
- (3) No person shall, while in a park, take part in any game, sport or activity except within an area specifically set aside for that game, sport or activity.

Fishing

- 22. (1) No person shall fish in an area posted to prohibit same, in any park.
- (2) No person shall fish in any park except in compliance with the Fish and Wildlife Conservation Act 1997, S.O. 1997, c.41, as amended, and the Fisheries Act, Chapter F-14, as amended.
- (3) No person shall fish in any park for commercial purposes.

Golfing

- 23. (1) While in any park, no person shall play or practise golf or strike a golf ball, except on a golf course or in a designated area.
- (2) On any golf course located in a park, no person shall:
 - (a) play or practise golf unless registered on that day as a player;
 - (b) hunt for or pick up any lost, misplaced, or abandoned golf balls provided that nothing herein shall prevent a person registered as a player or such player's caddy from retrieving or attempting to retrieve golf balls lost by such registered player; or,
 - (c) during the period from the opening of the course to the closing of the course, enter upon the playing area thereof unless registered on that day as a player or accompanying such player as a caddy.

Model Aircraft and Rockets

- 24. While in any park, no person shall operate any powered models of aircraft, rockets, watercraft or any ground vehicle unless authorized by permit.

Aircraft

- 25. Unless authorized by permit, no person shall tether, launch or land any fixed wing aircraft, helicopter, hot air balloon, hang glider, ultra light aircraft or similar

conveyance in any park.

Skating

26. On any natural or artificial ice surface located in any park, no person shall:
- (a) use speed skates unless authorized by permit or in a posted area in accordance with the posted conditions;
 - (b) skate or act in such a manner as to interfere with and/or endanger any other person using the surface; or
 - (c) use a stick of any kind except in accordance with posted conditions.

Skiing, Tobogganing and Sledding

27. (1) No person shall downhill ski, toboggan, snowboard, skibob or sled in any area park unless otherwise posted to allow same.
- (2) No person shall cross country ski in any area park that has been posted to prohibit same.

Roller Skates and Skateboards

28. (1) While in any park, no person shall:
- (a) operate or utilize skate boards, traditional roller skates, in-line or linear skates, scooters or like conveyances where signs are posted to prohibit or otherwise restrict the use of same; or,
 - (b) obstruct, inconvenience or endanger other users of the park while operating or utilizing skate boards, traditional roller skates or in-line or linear skates, scooters or like conveyances.
- (2) While in a park, no person shall fail to give way to the right while operating or utilizing a skate board, traditional roller skates, in-line or linear skates, a scooter or a like conveyances on any trail, path or roadway.
- (3) While in a park, no person while operating or utilizing a skate board, traditional roller skates, in-line or linear skates, a scooter or a like conveyance shall fail to yield the right of way to any other person or persons travelling on foot.
- (4) While in a park, no person while operating or utilizing a skate board, traditional roller skates, in-line or linear skates, a scooter or a like conveyance shall fail give an audible warning when overtaking and passing any other person.

- (5) While in a park, no person while travelling together with another person or persons, at any time, whether on foot or otherwise, may do so in such a manner as to occupy more than 50% of the width of any path or trail.
- (6) While in a park, no child of 16 years of age or less shall fail to wear a proper Canadian Standards Association approved bicycle helmet while riding a bicycle.
- (7) While in a park, no person having a child of 16 years of age or less under their care shall allow said child to ride a bicycle except when wearing a proper Canadian Standards Association approved bicycle helmet.
- (8) While in a park, no child of 16 years of age or less shall fail to wear a proper Canadian Standards Association approved helmet while riding on or using rollerskates, in-line skates, scooters, skate boards or like conveyances.
- (9) While in a park, no person having a child of 16 years of age or less under their care shall allow said child to ride on or use rollerskates, in-line skates, scooters, skate boards or like conveyances except when wearing a proper Canadian Standards Association approved helmet.

Tennis

- 29. No person shall enter, walk, or play upon or otherwise use any area or part thereof in any park, designated for the purpose of playing tennis, or any area enclosed as a tennis court or tennis courts, except in accordance with the posted rules and regulations, unless otherwise expressly authorized by permit.

PART IV - VEHICLES

Roadway

- 30.
 - (1) The Council or, where such authority has been designated, the Director or a Committee established by Council, is authorized to establish appropriate regulations to manage and control the use of the park roadways.
 - (2) Unless authorized by permit, and except as provided in section 34 with respect to bicycles or as provided in section 34.1 with respect to E-Scooters, no person shall while in any park, drive, operate, pull or ride any vehicle except on a roadway or public parking area.
 - (3) For the purposes of this section, "authorized users of Segway Personal Transporters" means a member of the Hamilton Police Service for the purpose of law enforcement, or a person who is 14 years old or older whose mobility is limited by one or more disabilities, conditions or functional impairments who operates the Segway in compliance with

Ontario Regulation 488/06.

- (4) For the purposes of this section a Segway Personal Transporter is a device manufactured by Segway Inc. and called a Segway Personal Transporter or a Segway Human Transporter, which device has not been modified after its manufacture other than by the addition of a basket, bag, bell, horn or lamp or other accessory customarily attached to a bicycle, and which addition does not increase the speed capability of the device.

Signs

31. (1) There may be erected one or more of the following signs in a Park:
- (a) Signs displaying the symbol for "No Parking" as specified under the Highway Traffic Act.
 - (b) Signs displaying the word "Yield", or a symbol in lieu thereof, specified under the Highway Traffic Act.
 - (c) Signs displaying the word "Stop", or a symbol in lieu thereof, specified under regulations to the Highway Traffic Act.
 - (d) Signs displaying the maximum speed limit, specified under regulations to the Highway Traffic Act.
 - (e) Signs displaying the symbol for "No "U" Turns", specified under regulations to the Highway Traffic Act.
 - (f) Signs indicating "one-way traffic", specified under regulations to the Highway Traffic Act.
 - (g) Signs indicating lane use designated, specified under regulations to the Highway Traffic Act.
 - (h) Signs prohibiting entry by vehicles or persons.
 - (i) Signs indicating that a roadway or drive is closed to vehicular traffic or to a particular class of vehicular traffic.
 - (j) Signs indicating a public parking area.
 - (k) Signs indicating a time limit for parking.
 - (l) Signs indicating service roads.
- (2) The signs referred to in subsection 1 may contain,

- (a) an exception or exceptions relating to an activity permitted in a particular area;
- (b) additional information relating to the regulation of traffic or parking.

Parking

32. No person shall in any park:

- (1) Park or leave any vehicle except in a designated area for parking;
- (2) Park or leave a vehicle, except during the times the park is open to the public, as defined in Section 3 of By-Law 01-219 as amended herein, or in a designated area allowing for such overnight parking, or during such times otherwise expressly authorized by permit, provided that such authorization is clearly displayed in the driver's side front windshield of the vehicle in such a manner as to be readable from the exterior of the vehicle;
- (3) Park a vehicle in a designated area for parking, except in a proper parking space and in accordance with markings and posted conditions;
- (4) Park a vehicle in any area or parking space where signs have been erected to prohibit parking;
- (5) Stop a vehicle in any area or parking space where signs have been erected to prohibit stopping;
- (6) Park or stop a vehicle in any area or parking space where signs have been erected to reserve the area or space for use by specific persons or vehicles;
- (7) Park a vehicle in a parking space reserved for persons with disabilities, unless a disabled person parking permit, issued in accordance with the provisions of the Highway Traffic Act, as amended, is properly displayed on or in the vehicle;
- (8) Park or stop a vehicle in any area or parking space except while actively using the park, or unless expressly authorized by permit, provided that such authorization is clearly displayed in the driver's side front windshield of the vehicle in such a manner as to be readable from the exterior of the vehicle;
- (9) Park or stop a vehicle in such a manner as to interfere with the use of any other area or parking space;
- (10) Park or allow any vehicle to stand unattended, unless it is secured in such a manner as to prevent its operation by any person not so authorized by the owner of the vehicle.
- (11) Park a vehicle for a period of time longer than the posted time limit, if any,

unless expressly authorized by permit, provided that such authorization is clearly displayed in the driver's side front windshield of the vehicle in such a manner as to be readable from the exterior of the vehicle.

- (12) Park or stop a vehicle, or allow a vehicle to stand, contrary to the instructions of a Police Officer, a Municipal Law Enforcement Officer, or an employee of the City.
- (13) No person shall park or stop a vehicle in contravention of Section 32(3), Section 32(4) or Section 32(5) of this By-law within a Special Enforcement Area.
- (14) For the purposes of subsection (13), "Special Enforcement Area" means an area set out on Schedule D-1.
- (15) Schedule D-1 describes the following:
 - (a) in column one thereof, the name of the roadway or part of the roadway included within the Special Enforcement Area;
 - (b) in column two thereof, the side of the roadway, by compass direction, where the Special Enforcement Area regulation applies;
 - (c) in column three thereof, the point upon the subject roadway where the Special Enforcement Area regulation commences and the point where the regulation terminates;
 - (d) in column four thereof, those periods during which the Special Enforcement Area regulation is in force and effect.
- (16) No person shall park or stop a vehicle in contravention of Section 32(8) of this By-law within a Special Enforcement Area.
- (17) For the purposes of subsection (16), "Special Enforcement Area" means an area set out on Schedule D-2.
- (18) Schedule D-2 describes the following:
 - (a) in column one thereof, the name of the Park or part of the Park included within the Special Enforcement Area;
 - (b) in column two thereof, the location where the Special Enforcement Area

regulation commences and the point where the regulation terminates;

(c) in column three thereof, those periods during which the Special Enforcement Area regulation is in force and effect.

33. No person shall make use of any roadway or parking lot in any park for:

- (1) washing, cleaning, servicing, maintaining or, except in the event of an emergency, the repair of any vehicle, unless expressly authorized by permit.
- (2) instructing, teaching or coaching any person in the driving of a motor vehicle.

Bicycles

34. While in a park, no person shall:

- (1) Ride, operate or be in possession of any bicycle where signs are posted to prohibit same;
- (2) Obstruct, inconvenience or endanger other users of the park while riding or operating a bicycle;
- (3) Subject to Section 37, fail to comply with all rules of the road normally in force and effect on a highway;
- (4) Ride abreast of more than one other cyclist;
- (5) Operate a bicycle which is not equipped with a bell or horn;
- (6) Operate a bicycle after dark which is not equipped with a front white light and a rear red light;
- (7) Fail to activate the required bicycle lighting when operating a bicycle after dark;
- (8) Ride or operate a bicycle in any area not set aside for that purpose, or ride a bicycle in an area set aside for any other purpose; or,
- (9) Fail to maintain proper control of the bicycle at all times.

E-Scooters

34.1

- (1) No person shall ride an E-Scooter in a park, unless in a designated area where City signs are posted to permit same.

- (2) No person shall operate, or cause to be operated, or use an E- Scooter in a park, or part thereof, where cycling, skateboarding or rollerblading is prohibited.
- (3) No person shall ride or push an E-Scooter in a park abreast of another E-Scooter or bicycle.
- (4) No person riding an E-Scooter in a park shall carry any package or article or act in such a way as to prevent that person from maintaining one hand on the handlebars at all times, including while signaling for a turn or stop and in any case, no person shall fail to maintain control of an E-Scooter.
- (5) No person shall cause an obstruction to pedestrian and/or vehicular traffic by parking an E-Scooter in a path or trail.
- (6) No person under the age of 16 years shall operate an E-Scooter.
- (7) Every person under the age of 18 years old shall wear a helmet that complies with the Highway Traffic Act when operating an E-Scooter.
- (8) No person operating an E-Scooter shall carry any other person thereon.
- (9) No person operating an E-Scooter shall tow another person, vehicle or device.
- (10) No person operating an E-Scooter shall attach themselves to another E-Scooter, vehicle or device for the purpose of being drawn or towed.
- (11) No person operating an E-Scooter shall operate it in any position other than while standing at all times.
- (12) The operator of an E-Scooter shall keep a safe distance from pedestrians and other users of the roadway, shoulder, bicycle lane, trail, path, walkway, or multi-use pathway trail at all times and shall give way to a pedestrian or bicycle by slowing or stopping, as necessary, where there is sufficient space for the pedestrian or bicycle and the E-Scooter to pass.
- (13) No person shall operate an E-Scooter on a trail, or in a park, or multi-use pathway at a speed that is markedly greater than the speed of the pedestrians who are proximate to the E-Scooter.
- (14) Every owner or operator of an E-Scooter shall ensure that the E-Scooter is equipped with a bell or horn, which shall be kept in good order and sounded whenever it is reasonably necessary to notify cyclists, pedestrians or others of its approach.
- (15) When operated at any time from one-half hour before sunset to one-half hour after sunrise and at any other time when, due to insufficient light or

unfavourable atmospheric conditions, persons and vehicles are not clearly discernible at a distance of 150 metres or less, every operator of an E-Scooter shall carry a lighted lamp displaying a white or amber light at the front and a lighted lamp displaying a red light at the rear. The lamps may be attached to the E-Scooter or may be carried or worn by the operator on his or her person.

- (16) No person shall operate or use an E-Scooter in such a manner that it may harm, injure or damage, either directly or indirectly, any person or property.

Motorized Recreational Vehicles

35. No person shall ride, drive, park or be in possession or control of a motorized recreational vehicle in any park except in a designated area or when expressly authorized by permit.

Trucks and Commercial Vehicles

36. No person shall drive, operate, pull or ride in any park:
- (a) any heavy machinery or equipment of any description and whatever the mode of power; or
 - (b) any truck, trailer, or bus whatsoever except a vehicle that is,
 - (i) being used for the purpose of making a delivery to a point within the limits of the park, while it is proceeding to or from such point of delivery, or
 - (ii) operated for personal, recreational or non-commercial use and provided authorization or a permit has been issued by the Director.

Speed

37. Unless authorized by permit, while in any park, no person shall operate:
- (a) any vehicle on a roadway at a speed in excess of the posted limit; or
 - (b) a bicycle other than on a roadway at a speed which endangers or is liable to endanger any other person using the park, or which causes another person using the park to experience a reasonable apprehension that they are at risk of injury or harm.

One-way Traffic

38. No person shall drive a vehicle on a one-way roadway in a direction opposite to the direction of the traffic.

Horses

39. (1) Unless authorized by permit, no person as the owner of a horse, or as a person having a horse under their care or control, shall permit the horse to enter or remain in a park unless:
- (a) the horse remains within an area designated for use by horses; and,
 - (b) the horse is well broken and wearing a bridle.
- (2) No person riding or having a horse under their care or control in any park shall obstruct, inconvenience or endanger other users of the park.
- (3) No person riding or having a horse under their care or control in any park shall hitch or fasten said horse at any place except that which is set aside for such purpose.
- (4) The provisions of this section shall not apply to a horse under the control of a Police Officer.

Dogs

40. (1) While in any park, no person as the owner of a dog, or as a person having a dog under their care or control, shall:
- (a) allow the dog to run at large;
 - (b) excluding persons with disabilities reliant upon a guide dog, permit the dog to enter any beach, pond, swimming area, farm area, garden, landscaped area, playground or sports field, or any other area posted to prohibit same;
 - (c) excluding persons with disabilities reliant upon a guide dog, permit the dog to enter any area of the park where a special event, carnival, celebration or other festival is taking place where signs are posted to prohibit same
- (2) While in a park no person as owner of a dog, or as a person having a dog under their care or control, shall:
- (a) fail to ensure that the dog is on a leash or chain not exceeding 2.4 metres in length; and,
 - (b) fail to pick up and remove from the park any excrement left by the dog.
- (3) A dog within a designated "Leash Free Park" shall be deemed not to be at

large.

- (4) The provisions of subsections and of Section 40 shall not apply to a Police work dog under the control of a Police Officer, or to a working dog under the of an employee of the City, or under the control of such agents or contractors as may be providing contractual services to the City, which services require dogs to run off leash, and only while engaged in the performance of the duties required by the agreement with the City.”

Other Animals

41. (1) No person as the owner of an animal, or as the person having any animal under their care or control, shall bring into, or permit such animal to enter any park, if the animal constitutes, or may constitute, a danger to other park users, or if the animal it is likely to give rise to justified apprehension in the minds of other park users, or if the animal is likely to interfere with another person's use or enjoyment of the park.
- (2) Subject to Sections 39 and 40, no person shall bring or permit to be brought any livestock into any park, except where expressly authorized by and in accordance with the terms and conditions of the permit authorizing such livestock to be upon specified park lands.
- (3) No person, except a Police Officer, having an animal under their care or control shall fail to appropriately restrain said animal.

PART VI - WATERCRAFT

Boating

42. No person shall, subject to any right at law to do so, place, operate, drive or ride any watercraft in any park in any area posted so as to prohibit or restrict the type and allowable uses of watercraft.

Mooring

43. Unless authorized by permit, no person shall, subject to any right at law to do so, moor watercraft in any park:
- a) except in a designated area;
 - (b) for a period longer than one (1) hour;
 - (c) contrary to posted restrictions or prohibitions or in any way that may or does endanger or inconvenience other watercraft or their use or other users of the park;

- (d) without prior payment of the fee, if any, therefore authorized by Council;
- (e) without prior payment of the requisite fee or fees, if any, approved by Council.

PART VII - COMMERCIAL ENTERPRISES

Sale of Merchandise Trade or Business

44. (1) Unless authorized by permit, no person shall, while in a park, sell or offer or display for sale:
- (a) any food, drink or refreshment;
 - (b) any goods, wares, merchandise or articles including promotional material, souvenirs and novelties; or
 - (c) any art, skill, service or work;
- except in accordance with The City of Hamilton Street Vendor Program.
- (2) While in any park, no person shall practise, carry on, conduct or solicit for any trade, occupation, business or profession, unless expressly authorized by permit;
- (3) No person shall, in any park, place, maintain or allow to remain any coin operated vending machine or game of any nature except when expressly authorized by permit.

Subscriptions and Contributions

45. While in a park, no person shall beg, panhandle, solicit or invite subscriptions or contributions, unless expressly authorized by permit.

Filming

46. While in a park, no person shall undertake or permit the undertaking of a filming event without a valid permit issued for the filming event under the Hamilton Film Permit By-law.

Circulars and Advertisements

47. (1) Unless authorized by permit, no person shall:
- (a) while in any park distribute, discard, or display any handbill, notice, or other circular, bill or advertisement; or

- (b) post, nail, attach, stencil or otherwise fasten or erect any poster, sign, notice, placard or other circular, bill, advertisement or paper to any park property;

PART VIII - REGULATIONS AND ENFORCEMENT

Permits and Licences

48. (1) The authority to issue permits referred to in the by-law is delegated to the Director.
- (2) The Director may issue a permit on such terms and conditions as the Director considers in the best interests of the City taking into account the general use of the park, the proposed use, the degree of interference or incompatibility that the proposed use may have with other uses or other users of the park, matters of health and safety, the effect the proposed use may have on flora and fauna and such other circumstances that the Director may consider appropriate.
- (3) The Director may impose such terms and conditions on the issuance of a permit as the Director considers appropriate in the circumstances including but not limited to: restrictions as to uses; time and location restrictions; indemnification, insurance and security for injury to persons or damage to property; protective measures for flora and fauna; and payment of permit and other costs associated with the permit and use.
- (4) The Director may refuse to issue a permit or revoke immediately a permit issued: where the applicant or permit holder has breached or failed to comply with any term or condition of the permit or issuance thereof; for non-payment of any fee or cost required to be paid by the applicant or permit holder; the breach or failure to comply with any City policy or by-law; the breach of any federal or provincial law; where the use by the permit holder is causing or has caused a disturbance; where the proposed use or current use unreasonably interferes with the use of the park by the public; and where it otherwise is in the best interests of the City that the application for a permit be denied or permit revoked.
- (5) A permit authorized under this By-Law is non-transferable.
- (6) The issuance of a permit pursuant to this by-law shall not relieve any person from the necessity of acquiring any other licence or permit required for such activity by any governmental or public authority.
- (7) All permits issued for activities contemplated in this by-law remain the property of the City.'

Posting of Signs

49. The Director is authorized to post signs of permission, regulation, restriction, warning or prohibition with respect to uses of, or activities in, any park, in accordance with the provisions hereof.

Temporary Closure

50. The Director is authorized to close off for such temporary period as the Director deems appropriate any park or part or parts thereof to relieve or prevent overcrowding or traffic congestion, or in the interest of public safety, or as may otherwise be authorized by council.
51. A Director is authorized for such temporary period or periods as the Director deems appropriate to close off or restrict access to any land or part or parts thereof referred to in ss. 1 (r) of By-Law No. 01-219 as amended to provide for or permit construction of works or undertakings in, on or through such lands as well as to provide for repairs, restoration, reconstruction or other remedial action with respect to parks, grounds or structures thereon.

Exclusions and Exceptions

52. (1) The provisions of this By-law respecting the driving, operating, parking or stopping of vehicles shall not apply to Authorized Emergency Vehicles while the operators thereof are performing their duties.
- (2) Without limiting the generality of the foregoing, the provisions of this by-law shall not apply to:
- (a) the drivers and attendants of ambulances or other emergency medical services vehicle, Police Officers, Officers of the Hamilton Fire Service or Municipal Law Enforcement Officers appointed by the Council of the City of Hamilton, while engaged in the performance of their duties;
 - (b) employees, agents or contractors of the City while engaged in works or services undertaken for or on behalf of the City; or
 - (c) a park, property or building that is now or hereafter under the jurisdiction of a board established by the Council or by statute, the members of which are appointed by Council.
- (3) This by-law shall be subject to provisions of contracts and agreements now or hereafter entered into by the City respecting works or services to be performed in any park.

Enforcement

53. (1) Any Police Officer, Municipal Law Enforcement Officer, or employee of the City designated by the Director for the purpose of this section is authorized to inform any person of the provisions of this by-law and to request compliance therewith.
- (2) Any Police Officer, Municipal Law Enforcement Officer or employee of the City whose duties include the enforcement of this By-law, is authorized to order any person believed by such Officer or employee to be in contravention of this by-law or who has contravened any provision of this by-law:
- (a) to desist from the activity constituting or contributing to such contravention;
 - (b) to remove from the park any animal or thing owned by or under the care of such person which the officer or employee believes is or was involved in such contravention; or
 - (c) to leave the park.
- (3) Any Police Officer, Municipal Law Enforcement Officer may enforce the provisions of this by-law.
- (4) Where any person contravenes any of the provisions of this by-law, or fails to comply with any order referred to in subsection (2) hereof, the permission and licence of such person to remain in that park is revoked.
- (5) Where any person contravenes any of the provision of this by-law and fails to comply with an order to leave the park, such person is subject to the provisions of the Trespass to Property Act, R.S.O. 1990, c.T.21.
- (6) In addition to those persons referred to in ss. 53 (1) to (3), an agent of the City, or a contractor or subcontractor of the City, and their agents, if designated by a Director, is authorized to carry out the functions described in those subsections

Penalty

54. (1) Any person contravening any provision of this by-law is guilty of an offence and on conviction is liable to a such penalty as is provided for under the Provincial Offences Act, R.S.O. 1990, Chapter P.33, as amended.
- (2) The owner of a motor vehicle that is parked or left in contravention of Section 32 of this by-law is guilty of an offence and on conviction is subject such penalty as is provided for under the Provincial Offences Act, unless at the time of the offence the motor vehicle was in the possession of another

person without the owner's consent.

- (3) A Police Officer or Municipal Law Enforcement Officer observing a vehicle alleged to be parked or stopped or standing in contravention of this by-law may attach a serially numbered parking infraction notice to the motor vehicle.
- (4) Any person upon presentation of the parking infraction notice may, within 7 days, pay a penalty out of Court in the amount prescribed by an order made by the Senior Regional Justice respecting the subject violation pursuant to Part II of the Provincial Offences Act.

Removal of Vehicles

- 55. A Police Officer or Municipal Law Enforcement Officer upon discovery of any vehicle parked, stopped or standing in contravention of section 32 of this by-law may cause it to be moved or taken to and placed or stored in a suitable place and all costs and charges for removing, care and storage thereof, if any, are a lien upon the vehicle which may be enforced in the manner provided by the Repair and Storage Liens Act, R.S.O. 1990, Chapter R.25, as amended.

Schedules

- 56. The schedules attached to this by-law and listed below shall have the same force and effect as if the provisions contained therein were contained in the body of this by-law:

Schedule "A" - Release of Balloons

Schedule "C" - Mooring

Schedule "D"- Special Enforcement Areas

Severance

- 57. Should a court of competent jurisdiction declare any part or the whole of any provision of this by-law to be invalid or of no force and effect, the provision or part shall be deemed to have been severed from this by-law, and it is the intention of Council that the remainder of the by-law survive and be applied and enforced in accordance with its terms to the extent possible under law.

Short Title

- 58. The short title of this by-law shall be "The Parks By-law".

Repeals and Enactment

- 59. By-law 70-2303 (Ancaster), passed on the 9th of June, 1970, By-law 2746-74 (Dundas), passed on the 7th of October, 1974, By-law 87-98-P (Flamborough) passed on the 17th of August, 1987, By-law 123-77 (Glanbrook), passed on the

6th of June, 1977, By-law 95-126 (Hamilton), passed on the 30th of May, 1995 and By-law 1951-85 (Stoney Creek), passed on the 26th of November, 1985, each as amended, and all Schedules thereto, are hereby repealed in their entirety.

60. Any references to By-laws 70-2303, 2746-74, 87-98-P, 123-77, 95-126 and 1951-85, as amended, antedating the passing and enactment of this By-law shall be deemed a reference to this By-law.
61. This By-law shall come into force and effect on the date of its passing and enactment.

PASSED AND ENACTED this day of , 2001

Office Consolidation - Updated as Amended

Mayor

City Clerk

SCHEDULE "A"

1. No person shall, while in a park, release more than nine balloons within any 24-hour period.

SCHEDULE "C"

Unless expressly authorized by permit no operator or owner of a boat or other watercraft shall moor, allow to be moored, or operate such a boat or watercraft within Bayfront Park or Pier 4 Park or along the Sea Walls located within Bayfront Park or Pier 4 Park or within the waters of any marina owned or operated by the City of Hamilton.

SCHEDULE "D"

Schedule D-1 - Special Enforcement Area			
Roadway	Side	Location	Increased Fine inEffect
Medwin Drive	Both	290m westerly of Tews Ln to westerly end	March 15 - November 15

Schedule D-2 - Special Enforcement Area		
Park	Location	Increased Fine in Effect
Johnson Tew Park	All areas within the boundaries of the Park	March 15 - November 15

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TAB 23

The Corporation of the City of Hamilton

BY-LAW NO. 86- 77

To Consolidate:

STREETS BY-LAW NO. 9329

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

DEFINITIONS

1. In this by-law,
 - (a) "City" means The Corporation of the City of Hamilton;
 - (b) "Commissioner of Engineering" means the Commissioner of Engineering of The Regional Municipality of Hamilton-Wentworth;
 - (ba) "Commissioner of Transportation" means the Commissioner of Transportation of The Regional Municipality of Hamilton-Wentworth;
 - (c) REPEALED. By-law No. 82-153, S.2.
 - (ca) "highway" means a common and public highway and includes a street, sidewalk, boulevard whether or not paved, and a bridge forming part of a highway or on, over or across which a highway passes and any portion of the land situate between street lines;
 - (d) "Director of Public Works" means the Director of Public Works of the City;
 - (e) "Traffic Commissioner" means the Director of Traffic Services of the City. By-laws Nos. 79-106, S.2; 81-127, S.1; 81-166, S.1; 85-160; S.1.
2. (1) REPEALED. By-law No. 82-153, S.3.

(2) Enforcement. In default of the doing of any matter or thing by any person required by the provisions of this by-law to do it, such matter or thing shall be done at his expense, and the expense incurred in doing it shall be recovered by action, or in like manner as municipal taxes.

(3) Power to Restrain by Action. Where any provision of this by-law is contravened, such contravention may, in addition to any other remedy and to any penalty which may be imposed, be restrained by action at the instance of a ratepayer or the City Corporation or a local board.

RECORD OF THE HIGHWAYS AND NUMBER OF BUILDINGS

3. (1) Street Names. The Planning and Development Committee of the City is authorized to recommend to the City Council from time to time, names for unnamed highways, and names for highways the names of which are desired to be changed. By-law No. 82-153, S.4.

(2) Street Name Signs. The Traffic Commissioner is authorized and directed to affix at the corners of highways, on public or private property, highway name signs of such type and to such number as may from time to time be authorized by the City Council, and to maintain the same in proper condition. By-law No. 82-153, S.7(1).

(3) Record of Highways and of the Numbers of Buildings. The Planning and Development Committee of the City is authorized to recommend to the Assessment Commissioner the numbers for buildings, and the last revised assessment roll shall be the record of the highways with boundaries and distances as required by The Municipal Act to be kept for public inspection. By-law No. 82-153, S.4.

(4) Affixing Numbers to Buildings. The Building Commissioner shall, upon the issuing of each building permit for the erection or for the removal to a new location of any building or structure, deliver to the person receiving the building permit a number sign of such type as may from time to time be authorized by the City Council, and corresponding to the number assigned in the last revised assessment roll, for affixing to such building or structure, and in default of any such number sign being so affixed within a reasonable time, or in the event of its removal, the Building Commissioner is authorized to affix the same or a like sign, and the amount of the expenses incident thereto may be entered by the City Clerk in the collector's roll and collected in the same manner as taxes, or, if paid by the occupant of the premises, the same may, (subject to any agreement between him and the owner), be deducted from the rent payable to the owner.

(5) Changing Numbers. Whenever it becomes necessary to change the numbers for buildings on any highway, and they are so changed in the assessment roll, the owners and occupants of all such buildings shall be certified forthwith, or beforehand if possible, and new number signs shall be supplied by the Building Commissioner, and the postal authorities shall similarly be notified at as early a date as possible, by the City Clerk; and in default of any such new number sign being affixed, the same may be affixed by the Building Commissioner with the results provided in subsection 4.

BOULEVARDS

4. (1) Parts of Highway Set Apart as Boulevards. All such parts of the highways as are situated between the curb or edge of the roadway and the nearest street line, exclusive of the area covered by sidewalk or pavement, and all planted strips between the two roadways of a divided highway, are hereby set apart for the purpose of boulevards and may be known and referred to as such; and the former may be known and referred to as "side-boulevards" and the latter as "middle-boulevards", and a side-boulevard which adjoins the limit of the highway may be known and referred to as an "inner side-boulevard", and the one which adjoins the curb or edge of the roadway, as an "outer boulevard".

(2) Abutting Owners May Maintain Side-Boulevards. Subject to the provisions of this by-law respecting trees on highways, and subject to the provisions of other by-laws respecting public works and obstructions to the view of drivers at intersections, an owner of land abutting on a highway may at his own expense maintain in grass, flowers and trees, that part of any side-boulevard immediately opposite his land, but not so as unreasonably to confine, impede or incommode public traffic.

(3) Prohibitions. No person shall,

- (a) wilfully injure any planted boulevard, or walk upon it if there be any crossing within reasonable distance; or
- (b) cause or permit any horse, mule, pony or vehicle to be upon any planted boulevard; or
- (c) cause or permit any hedge or other obstruction to the clear view of drivers of vehicles, to be upon side-boulevards within thirty feet of the limit of any intersecting highway.

TREES

5. (1) The Director of Public Works is hereby authorized to supervise the planting, trimming and removal of trees growing in the highways, and the trimming of trees planted upon a highway or upon private property, where the branches extend over a highway.

- (a) Definition. In this section except where otherwise indicated, "trees" includes a growing tree or shrub planted or left growing on either side of a highway for the purpose of shade or ornament.
By-law No. 81-166, S.1(2).

(2) Owners of Land May Plant Trees. Any owner of land abutting on a highway may with the approval of the City Council expressed by resolution plant shade or ornamental trees upon that portion of the highway upon which his land abuts and which has been set apart for the purpose of a side-boulevard.

(2a) It is hereby authorized and directed that the City may, with the consent of the owner, plant shade or ornamental trees within eight feet of the highway at the expense of the City of Hamilton provided,

- (a) any tree planted is the property of the owner of the land on which the tree is planted; and
- (b) the owner of the land shall undertake and agree that the City of Hamilton is not liable for maintenance, replacement, removal or otherwise in respect of any tree so planted. By-law No. 75-292, S.1.

(3) Not To Be Obstruction.

- (a) No tree shall be so planted that the same is or may become a nuisance in the highway, or obstruct the reasonable use of the same;
- (b) No tree shall be planted upon any highway, nearer to any other tree upon a highway, than thirty feet;

Provided, however, that in this clause, "tree" shall not be deemed to include any shrub or tree of a sort which does not normally attain a height or spread of more than twenty feet;

- (c) Unsuitable Species. No tree shall be planted in any highway, of any of the following species, which the council deems unsuited for that purpose, and the Director of Public Works is authorized to remove without notice any or all of such trees growing on a highway or planted thereon contrary to the provisions of this by-law:

Chinese Elms	Poplar
Cottonwood or	Soft Maple
Balm of Gilead	Willow

Provided, however, that this subsection shall be construed as obligating the City Corporation or the Director of Public Works to remove all or any of such trees, unless the City Corporation has had notice that the roots of the same have already obstructed a sewer of the City Corporation or a sewer connection serving land other than the parcel abutting upon that part of the highway in which the tree is growing. By-law No. 81-166, S.1(2).

(4) Permission to Cut Down. The owner of any tree upon a highway may remove or cut down the same with the authority in writing of the Director of Public Works, but nothing herein shall be construed as requiring the Director of Public Works to give such permission in writing without a resolution of the City Council, when in his opinion the removal of such tree might be against the public interest. By-law No. 81-166, S.1(2).

(5) Removal in Public Interest. Any tree planted upon a highway shall be removed when deemed necessary in the public interest, but in such case the owner of the tree shall be given ten days notice of the intention of the City Council to remove such tree, and be recompensed for his trouble in planting and protecting it, and if he so desires shall be entitled himself to remove the tree, but shall not in such case be entitled to any further or other compensation.

(6) Notice to Remove. The notice required by subsection 5 may be given by leaving the same with a grown-up person residing on the land adjacent to the highway and nearest to the tree, or, if the land is unoccupied, by posting it in a conspicuous place on the said land, and if the tree has not been removed upon the expiration of ten days after such giving of the notice, the Director of Public Works shall forthwith proceed to remove the tree. By-law No. 81-166, S.1(2).

(7) Decayed Trees.

- (a) An owner of a tree shall not leave standing any decayed or dangerous tree upon a highway, or any such tree so near to a highway that the same may be or become dangerous to persons lawfully using the highway;
- (b) Overhanging Limbs. An owner of a tree standing upon or adjacent to a highway shall not leave projecting over the highway any branch of any such tree in such manner as to obstruct the reasonable and safe use of the highway.

(8) No person shall injure or destroy a tree. By-law No. 79-106, S.1.

(9) No person shall attach any object or thing to a tree located on any highway or public place, except with the consent of the Director of Public Works notwithstanding that such attachment would not injure or destroy the tree. By-laws Nos. 79-106, S.1; 81-166, S.1(2).

TEMPORARY CLOSING OF HIGHWAY FOR REPAIRS, ETC.

6. (1) To Be Closed While Work in Progress. During the construction, repairing or improvement of any highway or portion thereof, the said highway or that portion of it being so constructed, repaired or improved shall be temporarily closed.

(2) Alternative Route. Where a highway or portion thereof is so closed, the Commissioner of Engineering shall provide and the Director of Public Works shall keep in repair, a reasonable temporary alternative route as selected and designed by the Traffic Commissioner for traffic and for all property owners who cannot obtain access to their property by reason of such closing. By-laws Nos. 81-166, S.1; 82-153, S.7(1); S.8(1).

(3) Barricades and Detour Signs. While a highway or portion thereof is so closed to traffic, there shall be erected by the Commissioner of Engineering or by the Director of Public Works, whichever is in charge of the work, at each end of the highway or portion thereof, and where an alternative route deviates therefrom, a barricade upon which an adequate warning device shall be exposed and in good working order continuously

except during full daylight, and at such points there shall be erected detour signs by the Traffic Commissioner, indicating the alternative route and that the highway is closed to traffic. Every such barricade shall be of that type which may from time to time be adopted by the City Council. By-law No. 82-153, S. 7(1); S.8(1).

REMOVAL OF SNOW AND ICE

7. (1) (a) From Roofs of Certain Occupied Buildings. With respect to every occupied building having a pitched roof from which snow and ice might fall upon any highway or other place to which the public has access, the occupants shall clear away and remove the snow and ice from the roof whenever there is sufficient accumulation to threaten danger in the event of a thaw.

(b) Recovery of Cost From Occupants, in Case of Default. In default of compliance with the requirements of this subsection, the Director of Public Works in lieu of or in addition to any other remedy provided by this by-law, is authorized to clear away and remove such snow and ice at the expense of the occupants, and in default of payment on demand, the amount of the expense incurred in doing it shall be recovered from the said occupants by action. By-law No. 81-166, S.1(2).

(2) (a) From Roofs of Certain Unoccupied Buildings. With respect to every unoccupied building having a pitched roof from which snow and ice might fall upon any highway or other place to which the public has access, the Director of Public Works is authorized to clear away and remove, at the expense of the owner of the building, the snow and ice from the roof whenever it has come to his attention that there is a dangerous condition. By-law No. 81-166, S.1(2).

(b) Recovery From Owner of Cost of Removal. The amount of the expense incurred in clearing away and removing snow and ice from the roof of any unoccupied building pursuant to the provisions of clause (a) of this subsection shall be added by the City Clerk to the collector's roll and collected as municipal taxes against land are collected.

(3) (a) From Sidewalks at Certain Occupied Buildings. The occupants of all classes of buildings except office buildings, multiple dwellings, other buildings of multiple occupancy and

government buildings, shall clear away and remove the snow and ice from all the sidewalks on the highways in front of, alongside or at the rear of such buildings, as soon as reasonably practicable after every snowfall, and in any event within twenty-four hours.

(b) The owners of all office buildings, multiple dwellings, other buildings of multiple occupancy and government buildings, shall clear away and remove the snow and ice from all the sidewalks on the highways in front of, alongside or at the rear of such buildings, as soon as reasonably practicable after every snowfall, and in any event within twenty-four hours. By-law No. 73-366, S.2.

(c) Recovery of Cost From Occupants, in Case of Default. In default of compliance with the requirements of this subsection, the Director of Public Works in lieu of or in addition to any other remedy provided by this by-law, is authorized to clear away and remove such snow and ice at the expense of the occupants, and the amount of the expense incurred in doing it shall be recovered from the said occupants, by action, or shall be recovered in the manner provided by subsection 4 of this section. By-laws Nos. 73-366, S.1; 81-166, S.1(2).

(4) From Other Public Sidewalks. The Director of Public Works is authorized to clear away and remove snow and ice from the sidewalks on any highway or part of a highway, in front of, alongside or at the rear of any occupied or unoccupied building or vacant lot, at the expense of the owners, and the amount of such expense shall be added by the City Clerk to the collector's roll and collected as municipal taxes against land are collected. By-law No. 73-366, S.1.

(5) Manner of Removal. In the clearing away and removal of snow and ice from sidewalks or roofs, no snow or ice shall be deposited in such manner as to obstruct drainage to any drain or sewer, or so as to obstruct access to any fire hydrant, and no such snow or ice shall unnecessarily be deposited upon the travelled portion of any highway.

(6) Sanding of Crossings, etc. by Director of Public Works. It shall be the duty of the Director of Public Works to cause to be levelled or sanded, or both if necessary, all sidewalks and cross-walks which are in a condition of non-repair by reason of snow or ice; and the Director of Public Works is also authorized to cause to be levelled or sanded, or both, any roadway or part of a roadway in special cases when authorized to do so. By-law No. 81-166, S.1(2).

REMOVAL OF VEHICLES FOR SNOW-CLEANING

8. No person shall park or leave a vehicle on a highway where snow or ice is being moved to open the road for travel on it, and any vehicle which has been parked or left on a highway prior to the commencement of or during a snow or sleet storm or the work of moving the snow or ice to open the road for travel on it shall be removed within one hour after the commencement of such storm or work; and in default of its being so removed, any constable upon discovery of any vehicle parked or left in contravention of this provision may cause it to be taken to and placed or stored in a suitable place and all costs and charges for removing, care and storage thereof, if any, shall be a lien upon the vehicle, which may be enforced in the manner provided by section 52 of The Mechanics' Lien Act. By-law No. 82-153, S.5.

OBSTRUCTING, ENCUMBERING, INJURING OR FOULING HIGHWAYS PROHIBITED

9. (1) Save as herein otherwise provided or as otherwise specifically permitted by law, no person shall obstruct, encumber, injure or foul any highway, or obstruct any drain, ditch or culvert upon a highway.

(2) Obstructions and Encumbrances. Without in anywise limiting the generality of the foregoing prohibition of obstructing or encumbering a highway, no person shall without lawful authority erect, install, place or maintain or cause or permit the erection, installing, placing or maintaining of any pole, post, fence, hedge, awning, canopy, marquee, sign, area opening, porch, doorstep, vehicle approach ramp, sidewalk, driveway, or other building, structure, firewood or thing either wholly or partly upon, in, under or over a highway, or firewood or any other thing calculated to obstruct it, and no person shall cause or permit the hanging or maintenance of any gate, door or other thing in such a manner as to allow it to swing over any part of a highway.

(3) Removal of Obstructions, etc. Any pole, post, fence, hedge, awning, canopy, marquee, sign, porch, doorstep, vehicle approach ramp, sidewalk, driveway or other building, structure, firewood or thing unlawfully upon, in, under or over a highway, either wholly or partly, shall be removed by the owner or occupant of the land in connection with which the same exists, and any area under and opening to it, unlawfully in any highway shall be filled up by the owner or occupant of the land in connection

with which it exists; and in default of compliance with this provision any such obstruction or encumbrance may be removed and any such area and opening to it may be filled in by the City, and the highway restored to its former condition, all at the expense of the owner or occupant of the land in connection with which such obstruction, encumbrance, area or opening exists, and the amount of such expense may be recovered by action or may be added by the City Clerk to the collector's roll against the said land and collected in like manner as municipal taxes. By-laws Nos. 81-166, S.2; 82-153, S.7(2).

(4) Fouling Highways. Without in anywise limiting the generality of the foregoing prohibition of fouling a highway, no person shall foul any highway or cause or permit the fouling thereof, either by,

- (a) the littering by throwing, placing or depositing of any dirt, filth, glass, handbill, paper or other rubbish or refuse, or the carcass of any animal. By-law No. 71-268, S.1;
- (aa) the placing or depositing of mud, soil or building material by spilling from or tracking by one or more vehicles making egress from or ingress to adjacent land. By-law No. 77-105, S.1;
- (b) the throwing, placing or depositing of any hay, straw, coal, manure, earth or other matter or thing, whether refuse or not, and whether spilled from a vehicle or not; or
- (c) discharging liquid waste; or
- (d) fouling a highway in any other manner.

(5) Where a highway is fouled contrary to any provision in clause (aa) of subsection 4, the owner of the adjacent land shall immediately remove the fouling and restore the highway to its condition prior to the fouling. By-law No. 77-105, S.2.

(6) Where the fouling is discovered by an official, servant, agent or any other person, the Commissioner of Engineering or the Director of Public Works may remove the fouling in such a manner as to restore the highway to the condition prior to the fouling. By-laws Nos. 77-105, S.2; 82-153, S.8(1).

(7) The fouling shall be removed at the expense of the owner of the adjacent land referred to in clause (aa) of subsection 4, and shall be recovered in a like manner as municipal taxes against the land of the owner. By-law No. 77-105, S.2.

9a. (1) The whole or portion of every load carried by a motor vehicle on a highway and which is not enclosed by the vehicle or a load container, shall be covered by a covering that is made of tarpaulin, canvas, netting or other material that prevents the load or any part of the load from falling upon the highway. By-law No. 79-332, S.1.

(2) Subsection 1 does not apply to municipal vehicles,

- (a) in the course of applying sand, salt, a mixture of sand and salt or similar substance to the highway for the purpose of highway or winter highway maintenance;
- (b) in the course of collecting waste;
- (c) within the limits of a highway construction contract. By-law No. 79-332, S.1.

(3) For the purpose of this section, "load" includes,

- (a) domestic or industrial waste of any kind within the meaning of By-law No. 68-360; or
- (b) construction material; or
- (c) earth, sand, gravel, stone, crushed stone, slag, salt or any mixture thereof; or
- (d) any other material or thing,

that may foul a highway by being blown thereon or by spilling or falling onto the highway. By-law No. 79-332, S.1.

POLES IN AND WIRES OVER A HIGHWAY

10. (1) May Be Permitted. Notwithstanding the provisions of this by-law prohibiting the obstructing, encumbering, injuring or fouling of highways, but subject to the provisions of other

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applicable Acts and by-laws, the following obstructions and encumbrances are permitted upon such terms and conditions as may be agreed upon:

- (a) electric light, power, telegraph and telephone poles and wires, and poles and wires for the transmission of electricity across or along any highway or public place;
- (b) poles, towers, wires, cables, amplifiers and other accessory equipment upon, across or along any highway or public place, for the purpose of transmitting electrical or electric impulses, signals and messages of every nature and kind, including those of alarm and protective systems, radio programmes or parts thereof, and television programmes or parts thereof, and the placing and maintenance of such equipment and of pipes, ducts, and conduits for enclosing such equipment, upon and within any poles, towers, pipes, ducts and conduits then erected, constructed or laid down, with the consent of the owner and the body in which is vested the management and control of such poles, towers, pipes and conduits.

(2) Location of Poles and Heights of Wires, etc. All such poles and towers referred to in subsection 1 shall be located, installed and maintained under the supervision and to the satisfaction of the Commissioner of Engineering and all such wires shall be placed and maintained at a height of not less than eighteen feet. By-law No. 82-153, S.8(1).

UNDERGROUND SERVICES IN NEW SUBDIVISIONS

10a. Notwithstanding any other provision of this by-law, all wires and conduits for,

- (a) the transmission of electricity; and
- (b) electrical or electric impulses, signals and messages of every kind and nature,

shall be installed underground in new subdivisions. By-law No. 79-217, S.1.

MISCELLANEOUS OBSTRUCTIONS AND ENCUMBRANCES
PERMITTED UPON OR OVER A HIGHWAY

11. Notwithstanding the provisions of this by-law prohibiting the obstructing or encumbering of a highway, but subject to the provisions of other applicable Acts and by-laws, the following obstructions and encumbrances are permitted during the pleasure of the City Council, in accordance with the provisions following:

Where No Permit or Other Formality Required

(1) Paved Sidewalks and Driveways Not Over 25' Wide. Save as otherwise provided in subsection 8, a paved sidewalk or driveway of a width of not more than twenty-five feet, without any curb and at the same level as the adjoining ground, from the public sidewalk to the land abutting upon the highway, or, where there is an outer side-boulevard then from the public sidewalk to the edge of the roadway, but this provision shall not be deemed to include an approach ramp. By-law No. 81-127, S.2.

(2) Canvas or Other Non-Rigid Awnings. An awning of canvas or other such light and flexible material to project over a sidewalk to the extent of not more than three-quarters of the width of the same.

Provided it is on a suitable frame properly supported from a building or structure on the land abutting upon a highway, that it is not attached to any tree, pole or other erection or thing on the highway, that no part of its supporting frame is closer to the sidewalk than seven feet and six inches, that no part of the awning is closer to the sidewalk than six feet and eight inches, and that it is so constructed, installed and equipped as readily to be capable to being raised to a furled position in which it extends not more than ten inches over the highway and is at least eight feet above the surface of the sidewalk below it.

Where Only Building Permit Required

(3) Refacing Existing Buildings. An existing building to encroach or further encroach upon a highway to such an extent as may be necessary to provide for refacing any such building. By-law No. 77-56, S.1.

(4) Awning Containers, Cornices, etc. Sills, brackets, awning containers and awning covers, to an extent of not more than two inches, at least eight feet above the ground.

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Cornices of show windows to an extent of not more than twelve inches, at least eight feet above the ground.

Eaves, and other cornices, to an extent of not more than eighteen inches, at least twelve feet above the ground.

Window air-conditioners to an extent of not more than eighteen inches, at least eight feet above the ground.

(4a) Architectural or Ornamental But Non-Structural Features. Architectural or ornamental but non-structural features at least eight feet above the sidewalk or where there is no sidewalk at least fourteen feet above the roadway to an extent of not more than one foot, provided that the area of vertical projection of such features which projected over the highway shall not exceed, in any area of one hundred square feet of wall, twenty square feet. By-laws Nos. 66-97, S.1; 76-90, S.1.

(5) Signs. A sign or other advertising device having an area of vertical projection of no more than sixty square feet and a thickness between its principal faces of no more than eighteen inches, to project over the highway to the extent of not more than ten feet or two-thirds as far as the curb lines, whichever is the lesser distance, at a height of at least eight feet above the ground; or, where the curb line is no more than seven feet from the street line, it may project as far as the curb line if the clearance above the ground is at least fourteen feet. By-laws Nos. 9417, S.2; 76-90, S.2.

Where Annual Charge or Indemnification Agreement, etc. Required

(6) Paving of a part of a side-boulevard other than as permitted under subsection 1, upon a permit in writing from the Commissioner of Engineering, according to his specifications and to his satisfaction, after registration in the Registry Office for the Registry Division of Wentworth, of an agreement satisfactory to the City Solicitor, to indemnify and save harmless the City Corporation for any and all actions, claims, demand and loss whatsoever which may result. By-law No. 81-127, S.3.

(7) Bridges, Canopies and Marquees. After registration of an indemnification agreement as aforesaid, a bridge or other structure over or across a highway at a height of not less than eighteen feet, for the purpose of access by the owner of land to

land of the same owner on the other side of the highway, and a canopy or marquee to the curb line at a height of at least eight feet above the sidewalk or ground. By-law No. 76-90, S.3.

(8) A vehicle approach ramp may be constructed as an independent installation by the City upon specifications of the Commissioner of Engineering and to his satisfaction,

- (a) in the case of ramps not more than twenty feet in width for single-family dwellings or two-family dwellings, after application in writing to the Director of Public Works;
- (b) in the case of any other ramps, after application in writing to the Traffic Commissioner,

upon payment by the applicant of any money as a charge for its construction as the City may approve, based on the average cost per square foot of construction of vehicle approach ramps independently constructed during the preceding calendar year.

By-laws Nos. 71-326, S.1; 81-127, S.4; 82-153, S.6, S.7(1), S.8(1).

(8a) Except as provided in subsection (8b), the location of all vehicle approach ramps shall be to the satisfaction of the Traffic Commissioner. By-laws Nos. 71-326, S.1; 81-127, S.5.

(8b) The location of a vehicle approach ramp for a driveway not more than twenty feet wide for single-family dwellings and two-family dwellings shall be to the satisfaction of the Director of Public Works. By-laws Nos. 71-326, S.1; 81-127, S.5; 81-166, S.1(2).

(8c) Except as provided in subsection (8d), no vehicle approach ramp may be located to allow access to a driveway where the distance between the building and the side property line is less than seven feet wide. By-laws Nos. 71-326, S.1; 74-267, S.1; 80-132, S.1; 81-127, S.5.

(8d) A vehicle approach ramp may be located,

- (a) to allow access to an attached garage or to a carport or to a front, side or rear yard;
- (b) to allow access to a mutual driveway not less than seven feet wide if,

- (i) the mutual driveway is established in accordance with any instrument registered in the Registry Office against the title of the lands of the abutting parcels; and
 - (ii) a hard surfaced paved rear or side yard parking space having dimensions not less than nine feet wide and twenty feet long can be established.
- By-laws Nos. 71-326, S.1; 81-127, S.5.

(8e) Where there is registered on title an agreement for paving a portion of the highway satisfactory to the Traffic Commissioner, notwithstanding subsection (8b), a vehicle approach ramp to one or more parking spaces located partially in the front, side or rear yard of a single-family, two-family or three-family dwelling and partially upon the boulevard of a public highway, shall be located to the satisfaction of the Traffic Commissioner. By-laws Nos. 74-267, S.1; 81-127, S.6, S.7(1), S.8(1); 84-43, S.1.

(8f) Where a vehicle approach ramp has been constructed in accordance with subsection (8e), the parking spaces provided shall not be occupied by,

- (a) a commercial motor vehicle or trailer within the meaning of The Highway Traffic Act; or
 - (b) a boat; or
 - (c) a mobile housing unit.
- By-law No. 81-127, S.8.

(9) Benches for the use of the public, on the untravelled portion of any highway, subject to such terms and conditions as may be agreed upon.

(10) Transit system shelters for the use of the public, on the untravelled portion of any highway, subject to such terms and conditions as may be agreed upon.

(11) Telephone booths for the use of the public, upon such terms and conditions including an annual or other charge, as may be agreed upon.

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(12) Subject to the provisions of The Municipal Act in that behalf, iron waste paper boxes on the street corners or elsewhere, for the use of the public upon such terms or conditions including an annual fee, as may be agreed upon.

(13) The maintenance and use by any person owning or occupying any building or other erection which by inadvertence has been wholly or partially erected upon any highway, upon the payment of such annual fee or charge as the City Council may from time to time deem reasonable, for such owner or occupant to pay for such privilege; and such fee or charge shall form a charge upon the land used in connection with such encroachment, and shall be collected in like manner as municipal taxes, for so long as the City Council permits the continuance of such encroachment.

Provided that an inadvertent encroachment which has been so permitted to continue shall be removed at the expense of the owner upon termination by resolution of the City Council, of the privilege for the continuance of such inadvertent encroachment.

11a. (1) The elevation of any access driveway at the street line shall be approved by the Commissioner of Engineering, By-law No. 71-21, S.1.

(2) Subsection (1) does not apply to single-family dwellings or to two-family dwellings. By-law No. 71-21, S.1.

11b. (1) Every person shall before placing one or more print media vending or distribution boxes on a sidewalk or a highway,

- (a) enter into an agreement satisfactory to the City;
- (b) pay an equivalent sum annually on January 1st of each year for each vending or distribution box but prorated for the balance of the year where vending or distribution boxes are placed after January 1st;
- (c) provide at the time of each annual payment and from time to time as may be required by the Commissioner of Transportation,

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- (i) an alphabetical street name inventory listing exactly where the vending or distribution boxes are placed; and
 - (ii) a map of the City satisfactory to the Commissioner of Transportation showing the location where each vending or distribution box is situate;
- (d) provide a \$1,000,000 public liability policy of insurance wherein the City is an additional named insured and the policy contains a provision for cross-liability. By-laws Nos. 84-40, S.1; 85-160, S.3.

(2) Every print media vending or distribution box shall be situate on a sidewalk or a highway only in accordance with the following regulations:

1. No vending or distribution box shall be placed,
 - (a) in such a manner as in the opinion of the Commissioner of Transportation may obstruct pedestrian or vehicular movement;
 - (b) on sidewalks having a width of 2 metres or less;
 - (c) within 30 metres of all street intersections except at the back of the sidewalk;
 - (d) at bus loading areas;
 - (e) within 6 metres of any fire hydrant;
 - (f) at or adjacent to pedestrian and vehicular egress and ingress locations including ramps and crosswalks so as to obstruct or interfere with egress and ingress;
 - (g) so as to obstruct or interfere with street maintenance.

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2. No vending or distribution box shall be chained, fastened or affixed to,
 - (a) utility apparatus, such as signal poles, lamp posts, H.S.R. utility poles;
 - (b) telephone booths, post boxes, bus shelters, bus roscos, sign posts, parking meters;
 - (c) a building, structure or fixture not designed to accommodate vending or distribution boxes, unless prior written permission from the owner is first obtained.
3. No deliveries to, maintenance of, and repairs to, vending or distribution boxes shall, in the opinion of the City, obstruct or interfere with the use of the travelled portion of the sidewalk or the highway on which the boxes are situate.
4. The exact location and manner of placement and maintenance of vending or distribution boxes shall be to the satisfaction of the Commissioner of Transportation. By-law No. 84-40, S.1.

(3) For the purpose of clause (b) of subsection 1, "equivalent sum" means a sum of money equal to the charge required to be paid by The Regional Municipality of Hamilton-Wentworth. By-law No. 83-160, S.1.

(4) For the purpose of clause (c) of paragraph 2 of subsection 2, "owner" means an owner or registered owner or other person satisfactory to the Commissioner of Transportation. By-law No. 83-160, S.1.

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MISCELLANEOUS EXCAVATIONS AND INSTALLATIONS
PERMITTED IN OR UNDER A HIGHWAY

12. Notwithstanding the provisions of this by-law prohibiting the obstructing, encumbering or injuring of highways, the surface of any highway may, subject to the provisions of section 13, be cut and the following obstructions and encumbrances permitted during the pleasure of the City Council, in accordance with the following provisions:

1. Area Opening. Subject to the provisions of the Building By-law, an area under and an opening to it in the highway upon permission of the City Council and after registration in the Registry Office for the Registry Division of Wentworth, of an agreement satisfactory to the City Solicitor, to indemnify and save harmless the City Corporation from any and all actions, claims, demands and loss whatsoever which may result.
2. Sewer Connections. A connection from a sewer of the City Corporation to the boundary of the highway, upon a permit in writing from the Commissioner of Engineering. By-law No. 82-153, S.8(1).
3. Pipes, Conduits, etc. Subject to the provisions of The Municipal Act, The Municipal Franchises Act and other applicable Acts,

- (a) pipes or conduits for transmitting gasoline, petroleum or petroleum products, along, under, in or upon a highway or land owned by the municipality;
- (b) pipes or conduits for enclosing wires for the transmission of electricity, under a highway or public place;
- (c) pipes or conduits for transmitting steam, under a highway or public square;
- (d) pipes and other necessary works for the transmission of water, gas or sewage on, in, under, along or across a highway; and
- (e) subways for cattle under a highway, upon the permission of the City Council in accordance with such terms and conditions as may be agreed upon.

REQUIRED PROCEDURE RESPECTING INSTALLATIONS UNDER
A HIGHWAY OR CUTTING THE SURFACE OF A HIGHWAY

13. (1) Application of Section. Wherever any work permitted by the provisions of this by-law or otherwise permitted by law involves any excavating in a highway or cutting the surface of a highway, the provision of this section shall apply, except in the case of sewer mains, water mains, water service pipes, vehicle approach ramps and other work done by the City Corporation.

(2) Where No Permit Required From Commissioner of Engineering. No permit from the Commissioner of Engineering to cut or excavate is required with respect to,

- (a) the laying of any private sidewalk or driveway, (except a vehicle approach ramp). Not more than fifteen feet wide, or;
- (b) an area under and opening to it in a highway, which is authorized under the provisions of this by-law, but all other relevant provisions of this section shall apply to the same.
By-law No. 82-153, S.8(1).

(3) Where Permit Required From Commissioner of Engineering. A permit in writing from the Commissioner of Engineering is required before the cutting of the surface of any highway with respect to the installation or replacement of,

- (a) any paving more than twelve feet wide;
 - (b) any sewer connection;
 - (c) any pole or tower;
 - (d) any pipe or conduit; or
 - (e) any other underground work or other work involving the cutting of the surface of any highway, except as otherwise provided in subsection 2.
- By-law No. 82-153, S.8(1).

(4) Application For Permit. Every application for a permit required under this section shall be made to the Commissioner of Engineering in writing in six copies, together with a plan in five copies, showing the proposed location, nature and particulars of the work, and the Commissioner of Engineering shall forward one copy of the application and one copy of the plan, each, to the Traffic Commissioner and to the Director of Public Works. By-law No. 82-153, S.7(1); S.8(1).

(5) Issue of Permit. The Commissioner of Engineering upon receipt of the application and after consultation with any other official aforesaid who may reasonably be concerned, will as soon as possible issue the permit to any applicant to whom such permit ought to be issued, but no permit shall be issued for the cutting of a highway where in the opinion of the Commissioner of Engineering the work ought to be done by boring instead of cutting, and in such case the permit shall be issued for boring. By-law No. 82-153, S.8(1).

(6) Notice of Commencement and Carrying on of the Work. Except in case of emergency, no such work shall be commenced without at least forty-eight hours notice in writing to the Commissioner of Engineering, the Director of Public Works and the Traffic Commissioner, or a full week's notice where a street will have to be closed, or the traffic on a heavily travelled street seriously interfered with, and daily notice shall be given to the Commissioner of Engineering, of the progress of all such work until its completion and the restoration of the highway; and, in case of any emergency work notice shall be given and an application for permit made as soon as possible after commencement of

the work, namely on the same day, or, if too late in the day, then within one hour of the opening of the Commissioner of Engineering's office on the next following day which is not a Sunday or other holiday. By-law No. 82-153, S.8(1).

(7) All Underground Work to be Done Only by City Corporation, Bonded Contractor, Public Utility or Franchise Holder. With the exception of work done by the City Corporation or its servants, agents or contractors, all work referred to in subsection 3 of this section except paving, and except an area under and opening to it in the highway, shall be done only by the public utility or the franchise holder lawfully in control or by a contractor who has deposited with the City Clerk a satisfactory bond of a recognized bonding company licensed to carry on business in Ontario, in such amount as may be deemed sufficient, that he will perform all work done upon, in or under a highway in a proper and workmanlike manner, take all proper precautions and safety measures for the protection of public and private property and of the public, including the maintenance of all necessary warning lights and watchmen, carry out and complete all such work and restore the highway to as good condition as before with all due expedition and dispatch, maintain the disturbed portion of the highway in proper repair for the period of two years after completion of the work, and indemnify and save harmless the City Corporation from any and all actions, claims, damages and loss whatsoever arising directly or indirectly from doing of the work.

(8) Supervision, Inspection, and Inspection Fees. All work referred to in this section shall be carried out under the direction and supervision of the Commissioner of Engineering and to his satisfaction, and the person in control of such work shall, forthwith upon demand after completion of the work, pay to the City Corporation all costs incurred by the City Corporation for inspection and supervision of the work, and all other costs which have been incurred. By-law No. 82-153, S.8(1).

(9) Carrying Out of the Work.

(a) Generally. All work to which the provisions of this section apply shall be carried out in a proper workmanlike manner, with all proper precautions and safety measures for the protection of public and private property, and of the public, including the maintenance of all necessary warning lights and watchmen, and brought to completion and the highway restored to as good condition as before as expeditiously as possible, all under the direction and supervision of the Commissioner of Engineering and to his satisfaction;

- (b) Cut in Boulevard. Where a sodded or planted boulevard is cut, top soil to a depth of at least six inches shall be placed over the required back filling, and the sod or other planting restored to as good condition as before; but in the case of a pavement cut, the entire section of pavement shall be replaced for its full length and width, and the paving restored to as good condition as before;
- (c) Cut in Sidewalk or Vehicle Approach Ramp. Where a cut is made in a sidewalk or vehicle approach ramp, the entire section which is cut shall be replaced in conformity with the concrete specifications and other requirements of the City Corporation;
- (d) Cut in Roadway. Where a cut is made in an unpaved roadway, it shall be backfilled with suitable granular material properly tamped, except the top twelve inches which shall be backfilled with crushed stone graded in size from three-eighths of an inch to dust, properly tamped; but where the cut is in an asphalt pavement, whether it is asphalt on macadam or asphalt on concrete, the pavement shall be replaced by three inches of hot-mix asphalt on an eight-inch concrete base over suitable granular material properly tamped;
- (e) Where Any Drain Connections, etc. Disturbed. Where a sewer or catch-basin connection or other service or facility of the City Corporation is broken or disturbed, the person in control of the work shall at once notify the Commissioner of Engineering who shall perform all necessary work of restoration at such person's expense, and where a private drain connection is broken or disturbed, such person shall at once cause the same to be repaired by a bonded sewer contractor.
By-law No. 82-153, S.8(1).

USE OF HIGHWAY DURING BUILDING OPERATIONS

14. (1) Use of Part of Highway Permitted. Notwithstanding the provisions of this by-law prohibiting the obstruction, encumbering, injuring or fouling of highways, the use of a portion

of any highway by the owner or occupant of land adjoining such highway during building operations upon such land for the storage of materials for such building or for the erection of boards is permitted in accordance with the provisions of this section.

(2) Permit Required. No such use shall be commenced unless and until a permit in writing has been obtained from the Traffic Commissioner, and no such use shall be made of any part of the highway except in accordance with the terms of the permit and all applicable provisions of the Building By-law. By-law No. 82-153, S.8(2).

(3) Terms of Permit. Every such permit shall show what part of what highway may be so used, for what part or parts of the day during what period of time, and no such permit shall be for the use of a greater area of the highway or for a longer period of time than is reasonably necessary, having regard to the safety and convenience of the public as well as the need of the applicant, and every such permit shall be subject to cancellation by the Traffic Commissioner at any time. By-law No. 82-153, S.8(2).

(4) No permit shall be issued until there has been paid a fee in such amount as may be determined from time to time by the City Council, and, upon the expiry of the permit, no such use shall be made of any part of the highway unless and until another permit in writing has been obtained and a further fee paid.

(5) Indemnification Agreement. No permit shall be issued until there has been delivered by the applicant an agreement from a recognized bonding company licensed to carry on business in Ontario, in such sum as may be required, to indemnify and save harmless the City Corporation, from any and all actions, claims, damages and loss whatsoever, arising from such use of the highway.

(6) Where Consent of Adjoining Owner Required. Before any permit is given for the use of any part of the highway beyond the limits of the frontage of the applicant, there shall be obtained from the owner of the adjoining lands, in writing, a consent and waiver of all claims against the City Corporation of any damages which may result, whether directly or indirectly from any such use of that part of the highway during the period to be covered by the permit and for a reasonable time thereafter.

(7) Other Requirements. Every person making use of any part of a highway during building operations shall be responsible that the following requirements are observed:

- (a) Mixing Mortar. No mortar, concrete or other such substance shall be mixed upon the highway, save upon a platform of wood, iron or other as suitable material and so located and guarded as to give adequate protection both to the highway and to children and the public;
- (b) Keep Drains Clear. No material shall be allowed to obstruct the free passage of water in any drain, gutter or watercourse;
- (c) Dust, Nuisance, etc. No unnecessary dust or noise shall be allowed, or any unnecessary or unreasonable annoyance to the public;
- (d) Warning Lights. No building material or other obstruction shall be allowed on a highway without sufficient suitable warning lights and such other safeguards as may be necessary or desirable for the protection of children and the public;
- (e) Clear and Restore Highway. All building material and other obstructions and all debris and residue shall be removed from the highway and the same restored to as good condition as before on or before the day of expiration of their permit.

MISCELLANEOUS REGULATIONS

15. (1) Firearms. No person shall discharge any gun or other firearm, air-gun or spring-gun of any class or type, anywhere in the City of Hamilton.

Provided, however, that this prohibition shall not apply to the discharge of firearms,

- (a) in properly constructed and supervised rifle ranges; or
- (b) in shooting galleries licensed by the Board of Commissioners of Police; or
- (c) by police officers or employees of the City Corporation carrying out their proper duties in the killing of stray pigeons, vicious dogs, or otherwise.

(2) Fireworks. REPEALED. By-law No. 79-128, S.34.

(3) Vehicle Crossing Sidewalk. Notwithstanding the provisions of the Traffic By-law prohibiting vehicles on sidewalks save at properly constructed crossings, it is permitted to cross a sidewalk with a vehicle with building materials during building operations, or for other reasonable and temporary need, where there is no regular crossing, provided that the sidewalk is protected by planking at least two inches thick, securely fastened and chamfered or bevelled at the ends for the greater safety of pedestrians, and provided further that a suitable temporary bridge is constructed across the adjoining gutter in such manner as not to obstruct the same.

(4) Filling Up and Draining Vacant Lots. The owner of any ground, yard or vacant lot shall be responsible to fill up and drain any depression where water lies, and to keep such ground, yard or lot clean and free of any debris and refuse. By-law No. 9643, S.2.

(5) Pits and Quarries.

(a) In Operation. No excavation for any pit or quarry shall be made or commenced within less than ten feet of the limits of any highway or other public place, or within less than ten feet of the limits of any adjoining lands; the slope at the sides of the excavation shall in no case be steeper than one and a half feet horizontal to one foot vertical, and the depth shall nowhere be greater than thirty feet;

(b) Not in Operation. The owner of any pit or quarry which is within three hundred feet of a road and which has not been in operation for a period of twelve consecutive months, shall level and grade the floor and sides thereof and the area within three hundred feet of its edge or rim so that it will not be dangerous or unsightly to the public.

(6) Strayed Pigeons. The Director of Public Works upon the complaint of the owner or occupant of any premises is empowered to enter upon such premises and the land buildings in the vicinity thereof for the purpose of trapping, removing or exterminating strayed pigeons which are causing annoyance to the owner or occupant or damage to such premises. By-law No. 81-166, S.1(2).

MISCELLANEOUS PROHIBITIONS

16. (1) Indecent Placards, etc. No person shall post or exhibit any placard, play bill, poster, writing or picture, or write any word or make any picture or drawing, which is indecent or may tend to corrupt or demoralize, on any wall or fence or elsewhere on a highway or in a public place.

(2) Defacing Signs. No person shall pull down or deface any sign or other advertising device or notice lawfully affixed.

(3) Discharging Rain Water on Highway. No owner, occupant or other person in control of any premises, shall allow any rain conductor or other drainage facility to discharge water so as to flow upon any highway; and no owner of any paved area other than a private driveway or sidewalk shall allow it to drain onto a highway.

(4) Depositing Snow on Highway. No person shall deposit any snow or ice on the travelled portion of any highway. By-law No. 10107, S.1(1).

(5) Discharging Nauseous Liquid. No person shall discharge or allow the discharge into any highway or public place, or into any sewer of the City Corporation of any toxic, flammable, corrosive or other nauseous liquid.

(6) Putting Kitchen Waste, etc. in Waste Paper Boxes. No person shall deposit into any waste paper box or basket on a highway, a lighted cigarette or other fire, or any accumulation of a kitchen waste or other garbage which ought rather to be put out in a container for collection in the City's regular garbage collection, or any other material of a kind not reasonably appropriate for depositing in a waste paper box or basket on a highway.

(7) Disturbing Noises. No person shall ring a bell, blow a horn, or shout or make any unusual noise, or any noise likely to disturb the inhabitants.

Provided that this shall not be deemed to prohibit the ringing of church bells, the sounding of motor vehicle horns when reasonably necessary or other noises of a reasonable nature and intensity on proper occasions. By-laws Nos. 10107, S.1; 68-290, S.1.

(8) Obstructing Watercourses. No person shall obstruct any drain or watercourse. By-law No. 10107, S.1(3).

(9) Other Public Nuisances. The throwing of stones or playing of games on a highway, the climbing of trees or fences, defacing of buildings with paint or writing or otherwise, and all other public nuisances of whatsoever kind or nature, are hereby prohibited.

(10) Criers and Vendors of Smallwares. Except as may be provided in any other by-law of the City, no crier and no vendor of smallwares shall practise his calling in the market place, or on the highways or on any vacant lot adjacent to the market place or to a highway. By-laws Nos. 9417, S.1; 10107, S.1(4); 85-103, S.1.

(11) Retail Selling. Except as may be provided in any other by-law of the City, no person shall sell by retail in any highway or on any vacant lot, lot adjacent to a highway, any meat, fish, vegetables, grain, hay, fruit, flowers, beverages, smallwares or other articles.

Provided that this shall not be deemed to apply to the sale of newspapers or magazines in a highway, or to the operations of any licensed refreshment vehicle in a highway, or to door-to-door or other persons lawfully selling from door-to-door. By-laws Nos. 10107, S.1(5); 85-67, S.1.

(11a) Notwithstanding subsection 11, the untravelled portion of a highway within that portion of the City of Hamilton that may be used for commercial or industrial purposes, may be leased or licensed to the owners or occupants of adjoining property for the purpose of establishing an outdoor cafe and the City may determine the consideration and terms and conditions of the lease or licence and may determine what constitutes an outdoor cafe. By-law No. 75-315, S.1.

16a. (1) No person shall erect or place or affix a sign or post a notice on property abutting on a defined highway or part of a highway. By-law No. 83-022, S.1.

(2) Every person who erects, places or affixes a sign or posts a notice contrary to subsection 1 shall upon written or oral notice forthwith pull down or remove the sign or notice. By-law No. 83-022, S.1.

(3) Notwithstanding subsection 1, the City may grant permission to erect, place or affix a sign or post a notice

upon such terms and conditions as the City may require, but nothing in this by-law shall oblige the City to grant such permission. By-law No. 83-022, S.1.

- (4) For the purpose of this section,
- (a) "building" includes structure;
 - (b) "defined highway" means a highway listed in City Traffic By-law No. 66-100 and in Regional Municipality of Hamilton-Wentworth By-law No. R 77-78, situate within the City;
 - (c) "local board" has the same meaning as in The Municipal Affairs Act;
 - (d) "person" includes the owner of the sign or notice, any individual or organization that has erected or caused to be erected, placed or affixed the sign or that has posted or caused to be posted the sign, or any individual or organization holding themselves out in the content of the sign or notice as sponsoring or responsible for the message therein;
 - (e) "property" means a building owned or used by the City, or local board, or used by any person on City land;
 - (f) "sign" does not include,
 - (a) a sign, advertising device or other device or apparatus within the meaning of section 5 of Traffic By-law No. 66-100; or
 - (b) a sign that is of a temporary nature and is free standing and on its own supports.
By-law No. 83-022, S.1.

PENALTIES

17. Every person who contravenes any provision of this by-law is guilty of an offence and is liable to a fine of not more than \$2,000.00. By-laws Nos. 73-39, S.1; 79-106, S.4; 81-218, S.1.

REPEAL

18. The following by-laws are hereby repealed, namely:

- (a) By-law No. 5789 Respecting Streets, passed on the 28th day of May, A.D. 1946, and all amendments thereto;
- (b) By-law No. 8317 Respecting the Sale and Setting Off of Fireworks, passed on the 10th day of June, A.D. 1958, and all amendments thereto;
- (c) By-law No. 8567 Prohibiting the Discharge of Firearms, passed on the 10th day of March, A.D. 1959, and all amendments thereto;
- (d) By-law No. 48 of the Revised By-laws of 1910, Respecting sand and gravel pits, and all amendments thereto; and
- (e) By-law No. 2380 of the Township of Barton To Regulate the Operation of Pits and Quarries, passed on the 30th day of June, A.D. 1958.

19. Every reference to By-law No. 9329 shall be a reference to this by-law.

20. The short title of this by-law is "The Streets By-law".

PASSED this 25th day of FEBRUARY A.D. 1986.


City Clerk


Mayor



Bill No. B-77

The Corporation of the City of Hamilton

BY-LAW NO. 88-244

To Amend:

Streets By-law No. 9329

Respecting:

TREES AND SHRUBS

WHEREAS the Council of The Corporation of the City of Hamilton passed By-law No. 9329 on the 9th day of May, 1961, being the Streets By-law, to regulate, among other things, the planting of trees and shrubs along the boulevards and road allowances in the City of Hamilton;

AND WHEREAS By-law No. 86-77 was passed on the 25th day of February, 1986 to consolidate the Streets By-law No. 9329 as amended to date;

AND WHEREAS the Council of The Corporation of the City of Hamilton, in adopting Item 4(a) of the Eighth Report of the Transport and Environment Committee at its meeting held on the 10th day of May, 1988, directed that By-law No. 9329 (as consolidated by By-law No. 86-77) be amended further with respect to the planting of trees and shrubs on the boulevards and road allowances in the City of Hamilton.

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

1. (1) Section 5(2) of By-law No. 9329, as consolidated by By-law No. 86-77, is further amended by adding thereto the following subsection:

(b) Owners of Land May Plant Shrubs. Subject to subsection (3)(bb), any owner of land abutting on a highway may plant hedges and shrubs and other plant material upon that portion of the highway upon which his or her land abuts and which has been set apart for the purpose of a side-boulevard.

(2) Section 5(2) of By-law No. 9329, as consolidated by By-law No. 86-77, is further amended by inserting after the numeral (2) the letter (a).

2. Section 5(3) of By-law No. 9329, as consolidated by By-law No. 86-77, is amended by adding thereto the following subsection:

- (bb) 1. No hedge or shrub or other plant material that is planted within 10 feet of a public sidewalk or curb or edge of a roadway shall be permitted to exceed 30 inches in height.
2. No hedge or shrub or other plant material shall be so planted, or permitted to grow to such an extent, that it overhangs the sidewalk, shoulder or roadway.

3. Section 5 of By-law No. 9329, as consolidated by By-law No. 86-77, is further amended by adding thereto the following subsection:

(10) Pruning. Every person who plants a tree or trees on a side-boulevard within 10 feet of a public sidewalk, curb, or edge of a roadway shall prune the tree or trees to the trunk for the first 8 feet above the ground.

4. In all other respects, section 5 of By-law No. 9329, as consolidated by By-law No. 86-77, is hereby confirmed, unchanged.

5. (1) Section 9(2) of By-law No. 9329, as consolidated by By-law No. 86-77, is amended by adding after the word "hedge" in the sixth line, the following:

shrub, tree, or other plant material,

(2) Section 9(3) of By-law No. 9329, as consolidated by By-law No. 86-77, is amended by adding after the word "hedge" in the second line, the following:


shrub, tree or other plant material,

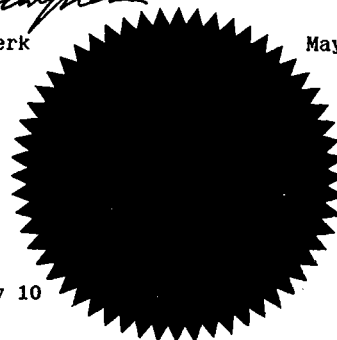
(3) In all other respects, section 9 of By-law No. 9329, as consolidated by By-law No. 86-77 is hereby confirmed, unchanged.

PASSED this 25th day of October

A.D. 1988.


City Clerk


Mayor



(1988) 8 R.T.E.C. 4a, May 10

Bill No. A-1

The Corporation of the City of Hamilton

BY-LAW NO. 92-010

To Amend:

By-law No. 86-77

Respecting:

SERVICE CLUB SIGNS ON HIGHWAYS

WHEREAS By-law No. 86-77 was enacted by the Council of The Corporation of the City of Hamilton on the 25th day of February 1986 to consolidate Streets By-law No. 9329;

AND WHEREAS the Council of The Corporation of the City of Hamilton, in adopting Section 12 of the 15th Report of the Transport and Environment Committee authorized the preparation of this by-law.

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

1. Section 1 of By-law No. 86-77 is amended by repealing clause (b).

2. Section 1 of the said by-law is amended by repealing clause (ba) and replacing it with the following:

(ba) "Commissioner of Transportation/Environmental Services" means the Commissioner of Transportation/Environmental Services of The Regional Municipality of Hamilton-Wentworth;

3. Section 1 of the said by-law is amended by adding the following clause:

(dd) "Service Club" means a non-profit organization or association which has charitable or social objects;

4. Section 11 of the said by-law is amended by adding the following subsection:

(14) Service Club Signs. The Commissioner of Transportation/Environmental Services may issue a permit to allow the placing of service club signs upon the City highways. The location of the signs shall be acceptable to the Commissioner of Transportation/Environmental Services and to the Traffic Commissioner. The signs shall be constructed and installed by the City at the expense of the service club.

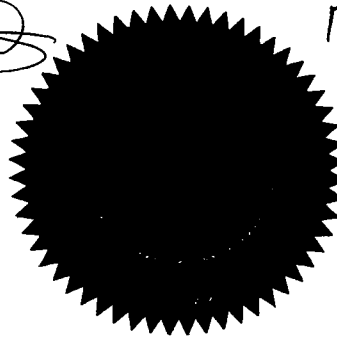
5. Section 17 of the said by-law is repealed and replaced by the following:

17. Every person who contravenes any provision of this by-law is guilty of an offence and upon conviction is liable to the fine specified in section 62 of the Provincial Offences Act, R.S.O. 1980, Chapter 400, as amended.

PASSED this 14th day of January

A.D. 1992.


City Clerk




Mayor

The Corporation of the City of Hamilton

BY-LAW NO. 93- 003

To Amend:

Streets By-law No. 86-77

Respecting

SIGNS

WHEREAS the uncontrolled posting of signs and notices on utility poles on the highway creates a safety hazard for City employees and a potential traffic hazard;

AND WHEREAS the posting of signs and notices creates an aesthetic and visual blight;

AND WHEREAS the City provides kiosks for the public to affix signs in certain parts of the City;

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

1. Section 16a. of By-law 86-77 is repealed and the following is substituted in lieu:

16a. (1) No person shall erect or place or affix a sign or post a notice on property abutting a highway or part of a highway except in accordance with this section.

(2) Any person posting a sign or notice shall follow the directions of the Director of Public Works.

(3) Signs or notices shall be fastened with adhesive tape. No person shall fasten the sign or poster on a utility pole with staples or any metal device.

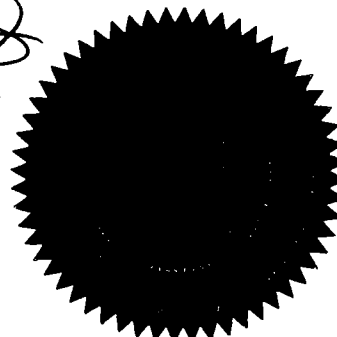
(4) The person posting the sign or notice shall remove the sign or notice and all posted materials five days after the event advertised has occurred.


(5) No sign or notice which exceeds the dimensions of eleven (11) inches wide by seventeen (17) inches long shall be posted.

(6) For the purposes of this by-law, "sign" does not include a sign that is free standing and on its own supports.

PASSED this 12th day of January , A.D. 1993.


City Clerk




Mayor

Bill No. A-7

The Corporation of the City of Hamilton

By-law No. 94 - 016

To Amend Streets By-law No. 9329

As Consolidated by By-law No. 86-77

Respecting

SNOW AND ICE ON HIGHWAYS

WHEREAS City Council, on February 8, 1994, in adopting Item 13 of the 2nd Report of the Transport and Environment Committee authorized an amendment to subsection 5 of Section 7 of By-law No. 86-77;

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

1. Subsection 5 of Section 7 of By-law No. 86-77 is repealed and replaced by the following:
 - "5. No person shall throw, place, bring or deposit snow or ice or slush onto the travelled portion of any highway or obstruct drainage to any drain or sewer or obstruct access to any fire hydrant."

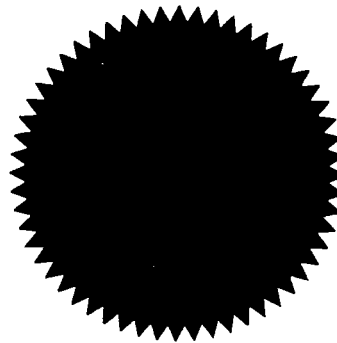
PASSED this *8th* day of *February* 1994.



CITY CLERK



MAYOR



The Corporation of the City of Hamilton

BY-LAW NO. 96-122

To Amend:

Streets By-laws No. 86-77

Respecting:

TEMPORARY HIGHWAY CLOSURES FOR EVENTS

WHEREAS the Council of The Corporation of the City of Hamilton has enacted "The Streets By-law" No. 86-77, on the 25th day of February 1986;

AND WHEREAS the Municipal Act, R.S.O. 1990, c. 45, section 207(44) states as follows:

"207. By-laws may be passed by the councils of all municipalities:

44. **Temporary closing of highway.** -- For closing to vehicular traffic on a temporary basis for such period as shall be specified in the by-law, any highway under the jurisdiction of the council for such social, recreational, community, athletic or cinematographic purpose, or combination of such purposes, as may be specified in the by-law and for authorizing a committee of council or a municipal officer or employee, subject to such conditions as council may impose, to exercise any of the powers of council under this paragraph.

- (b) A by-law under this paragraph may prohibit the use, except for pedestrian traffic, of the highway or portion of the highway so closed during the period of closure except under the authority of a Permit issued under the by-law upon such terms and conditions, including such fee for the Permit, as may be set out in the by-law."

AND WHEREAS the Municipal Act, R.S.O. 1990, c. 45, section 207(44)(a) provides that clauses (a) and (b) below, with necessary modifications, apply where closures of highways on a temporary basis to vehicular traffic are authorized pursuant to section 207 (44) of the Municipal Act:

- (a) Where a highway or portion thereof is closed by by-law under this paragraph, the municipality shall provide and keep in repair a reasonable temporary alternative route for traffic and for all property owners who cannot obtain access to their property by reason of such closing.
- (b) While a highway or portion thereof is so closed to traffic, there shall be erected at each end of such highway or portion thereof, and where an alternative route deviates therefrom, a barricade upon which an adequate warning device shall be exposed and in good working order continuously from sunset until sunrise and at such points there shall be erected a detour sign indicating the alternative route and containing a notice that the highway is closed to traffic.

AND WHEREAS it is desirable to amend the said Streets By-law to provide for the matters referred to in section 207(44) as hereinafter provided;

AND WHEREAS Council at its meeting held on May 14, 1996, in adopting Item 27 of the 7th Report of the Transport and Environment Committee, resolved to amend the Streets By-law as follows.

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

1. By-law No. 86-77 is amended by adding thereto the following definitions to section 1,
 - (f) "Chief of Police" means the Chief of Police for the Regional Municipality of Hamilton-Wentworth;
 - (g) "Fire Chief" means Chief of the Fire Department of the City of Hamilton;
 - (h) "motor vehicle" means motor vehicle as defined in the Highway Traffic Act, R.S.O. 1990, c. H.8, as amended.
2. By-law No. 86-77 is amended by adding thereto the following provision as section 6.1:
 - 6.1 (1) In this section,
 - (a) "social, recreational, community, athletic or cinematographic purposes" shall be deemed to include the following events:
 - (i) bicycle races;
 - (ii) bicycle rides for charity;
 - (iii) film making and television productions;
 - (iv) hay rides;
 - (v) music festivals;
 - (vi) parades and processions regulated pursuant to By-law No. 75-42
 - (vii) religious ceremonies;
 - (viii) running races;
 - (ix) soap box derbies;
 - (x) street dances;
 - (xi) street festivals - jugglers, magicians, etc.,
 - (xii) walk-a-thons;
 - (b) the phrase, closure on a temporary basis, means a closure for a period or periods of time totalling less than thirty six hours and comprising no single period of closure in excess of 12 consecutive hours to a maximum of twenty-four hours closure within any forty-eight hour period;
 - (2) Except where otherwise lawfully permitted, a highway shall not be closed in whole or in part to vehicular traffic on a temporary basis and used for social, recreational, community, athletic or cinematographic purposes except under the authority of a Permit issued under this section upon the terms and conditions, including such fee for the Permit, as may be set out in this by-law.

(3) **Committee.** A special committee of Council is hereby established to be known as the Highway Temporary Closures Committee. The Secretary of the Committee shall be the City Clerk or the Clerk's designate. This Committee shall be comprised of the following elected officials and decisions may be made by any three members of the Committee:

- (a) the Mayor, (or Acting Mayor);
- (b) the Chairman of the Transport and Environment Committee, (or Vice Chairman); and
- (c) the Aldermen of the Ward within which a highway is intended to be temporarily closed to vehicular traffic.

(4) (a) Applications to close a highway in whole or in part on a temporary basis to vehicular traffic for the social, recreational, community, athletic or cinematographic purposes listed below shall be under the jurisdiction of the Transport and Environment Committee for recommendation to Council:

- (i) events involving the sale and/or consumption of alcohol;
- (ii) events involving gambling;
- (iii) motor vehicle and motorcycle races;
- (iv) events with aircraft, including passenger balloons and parachutes;
- (v) events within the downtown area bounded by Bay, York, Wilson, Wellington and Main Streets;
- (vi) events taking place in more than one ward;

(b) **Delegation of Authority.** Subject to subsection (a) above, the power of Council to authorize the closing of highways in whole or in part on a temporary basis to vehicular traffic for social, recreational, community, athletic or cinematographic purposes is hereby delegated to the said Highway Temporary Closures Committee, pursuant to the Municipal Act, [R.S.O. 1990, c. M.45, s. 207(44)];

(c) Applications for closure of a highway to vehicular traffic shall not be approved pursuant to this by-law where the closure is for a period longer than "on a temporary basis" or the closure is for other than social, recreational, community, athletic or cinematographic purpose, or combination of such purposes.

(5) (a) An application for closing a highway in whole or in part on a temporary basis to vehicular traffic for an event may be,

- (i) approved, subject to the conditions herein together with such other conditions of approval which may reasonably be required as a condition of approval; or
- (ii) denied, or
- (iii) where an application is under the jurisdiction of the Highway Temporary Closures Committee, as an alternative to (i) or (ii) above, the special Committee may refer the application to the Transport and Environment Committee for consideration and recommendation to Council;

(b) No decision shall be made by the Highway Temporary Closures Committee until,

- (i) the applicant has submitted an application to the City;

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- (ii) the applicant has paid an application fee at such rate as Council may require from time to time; and
 - (iii) the Committee has received the appropriate staff report and recommendation on the application;
- (c) All decisions of the Highway Temporary Closures Committee shall be reported to the Transport and Environment Committee for the information of that Committee;

(d) **Appeals.** A decision of the Highway Temporary Closures Committee under this section may be appealed by the applicant to the Transport and Environment Committee for its recommendation to Council, provided the applicant submits a Notice and grounds of appeal in writing to the Secretary of the Transport and Environment Committee.

(6) The closure and occupation of a highway for a greater area or for a longer period of time than may be necessary in the opinion of the Committee, having regard to the nature of the proposed purpose and the safety and convenience of the public, shall not be approved. Events upon a highway in a residential area shall be restricted to the period between 8:00 a.m. and 11:00 p.m. unless otherwise permitted as a condition of approval.

(7) All closures of highways in whole or in part on a temporary basis to vehicular traffic, approved by the Highway Temporary Closures Committee or Council, as the case may be, shall be subject to the conditions in this by-law and to additional specific conditions of approval, if any.

(8) (a) **Application.** Every application for a closure of a highway in whole or in part, to vehicular traffic on a temporary basis, shall be submitted to the City and shall include the following minimum information:

- name and street address of applicant (event sponsor) and the mailing address, (if different) ;
- charitable registration number of applicant, (if any), from Revenue Canada;
- name and contact address of applicant's agent or representative;
- proposed location(s) of the portion(s) of highway(s) to be closed on a temporary basis to vehicular traffic;
- proposed hours and date(s) of closure of highway to vehicular traffic;
- specific nature of proposed event;
- proposed hours and date(s) of event;
- where applicable, number of estimated participants and number of estimated spectators;
- the fees or charges (if any) intended to be received by the applicant from participants in the proposed event or from members of the public.

(b) The application shall be reviewed, circulated for comments to the appropriate departments and public agencies and a recommendation on each application shall be made for a decision:

(9) **Application Fees.** Every applicant shall pay such application fee at such rate as may be prescribed from time to time by Council. Council may set fees for the following classes of applicants:

- (i) applications by a commercial organization, (including non profit companies comprised of commercial organizations);

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- (ii) applications by a charitable organization registered as a charity with Revenue Canada, or by a board or commission as defined in the Municipal Affairs Act;
 - (iii) applications by a person not within either of the above two groups.
- (10) **Agreement to cover costs and indemnify City.**

(a) Every applicant shall, prior to the issuance of a Permit, enter into a Licence Agreement with and satisfactory to the City in accordance with the conditions of approval, in respect of the temporary closing and the proposed event, regarding the standard and additional specified conditions, (if any), of approval, including, the following minimum conditions:

- (i) the area of the highway to be closed on a temporary basis, the hours and date of such closure, the purpose of the closing, ie social, recreational, community, athletic or cinematographic purpose, and the nature of the proposed event;
 - (ii) payment of application fee for this privilege at such rate as may be fixed by Council from time to time;
 - (iii) set up, maintenance, dismantling and clean up of applicant's equipment, including clean up of the highway;
 - (iv) reimbursement of the City for any costs incurred or to be incurred by the City as a result of such occupation and the deposit with the City the estimated amount of such costs prior to issuance of the Permit;
 - (v) indemnification of the City, Regional Police, The Regional Municipality of Hamilton-Wentworth, and any board, commission or utility from any action, claim, damage, or loss whatsoever which may be sustained as a result of the applicant's event, arise from closing of the highway to traffic, issuance of the Permit or from the occupation of the highway thereunder;
 - (vi) where the applicant is not incorporated, the licence agreement shall be signed by not less than two persons who shall assume the obligations in the licence agreement in favour of the City.
- (b) In addition, as a condition of approval, an applicant may be required to provide the following, (details of which shall be included in the said Licence Agreement):

- (i) payment of cash or letter of credit satisfactory to City, as security that conditions of approval will be fulfilled, including clean up of highway and that expenses incurred by the City shall be paid;
- (ii) agreement of a bonding company acceptable to the City and licensed to carry on business in Ontario, in such sum as may be required, to indemnify and save harmless the City, from any and all actions, claims, damages and loss whatsoever, arising from such use of the highway;

- (iii) a consent and waiver from owners of adjoining lands of all claims against the City for any damages which may result, whether directly or indirectly, from such closure and use of that part of the highway, which shall be filed with the City before the Permit is issued;
 - (iv) such other conditions as may reasonably be required in the opinion of the Committee or Council, as the case may be.
- (11) **Insurance.** Every applicant shall, prior to issuance of a Permit, obtain and file with the City, a Comprehensive General Liability, Property Damage, Bodily Injury insurance in the amount of \$2,000,000.00, (or such larger amount as may be required as a condition of approval), covering the activity -- with a company and in a form satisfactory to the City, in the name of the applicant and providing The Corporation of the City of Hamilton and The Regional Municipality of Hamilton-Wentworth as additional insured, subject to cross liability and severability of interest provisions.

(12) **Issuance of Permit.**

After an application is approved, a Permit shall not be issued for an event until the following matters have been completed and/or received as required from the applicant:

- (a) evidence satisfactory to the City of compliance with the conditions in this provision and the conditions of approval, if any, specified in the decision, including in particular, the filing of a Certificate of the required Insurance and entering into the indemnification agreement;
- (b) a declaration confirming that owners, tenants, or occupants of premises adjacent to City highway intended to be closed have been notified of the intended closure of the highway to vehicular traffic and of the proposed event, including their respective times and details;
- (c) evidence of approval from the Chief of Police or his designate, to the closure and that such special duty police officers as may be deemed necessary by the Chief of Police will be provided at the applicant's expense.

(13) **Terms of Permit**

- (a) Every Permit shall indicate which part of the highway may be so used, during what period of time, and every Permit shall be during the pleasure of the City, subject to cancellation at any time by the Highway Temporary Closures Committee;
- (b) A permit issued under this by-law is not transferable. The City reserves the right to require the applicant to fulfill such additional conditions of approval as may be specified at any time.

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- (c) **Cancellation of Permit.** In case of emergency or where it is believed that the applicant is or will be in breach of any condition of the Permit or that an unsafe or hazardous condition has or is about to arise, the Highway Temporary Closures Committee, staff, or any police officer, may, at any time, require an applicant to cease activities covered by the Permit in whole or in part for such period(s) as may be directed.

(14) **Closure of highway to vehicular traffic on temporary basis.**

After a Permit is issued hereunder, staff,

- (a) is authorized to and shall take steps necessary to prohibit vehicular traffic in order that the said highway or that portion of it being so closed, shall be temporarily closed and, for that purpose to cover such traffic signs and parking meters as may be necessary to give effect to the approved closure of the highway to vehicular traffic;
- (b) shall immediately forward a copy of the approved decision, the additional specified conditions of approval if any, and the Permit, to the appropriate departments and agencies, including, the Ward Aldermen;

(15) **Standard Conditions of Approval.** All closures of highways to vehicular traffic on a temporary basis for an event are subject to the applicant fulfilling each of the following standard conditions of approval:

- (a) **Notice.**
 - (i) Prior to the issuance of the Permit, that all property owners and tenants adjacent to the highway intended to be closed on a temporary basis be notified by the applicant of the temporary highway closing and the proposed event, in a form and at date(s) satisfactory to the City. Such notification shall not be less than a full fourteen day's notice prior to the event;
 - (ii) such other Notice to the public on such dates, in such form and in such media as may reasonably be required in the opinion of the City;
 - (iii) wherever an applicant recognizes or credits in any form of media, contributors whose assistance made the event possible, the applicant shall include the City among those credits.
- (b) **Admission Charges.** That the applicant shall not collect any admission charges except when expressly permitted in the City's decision;
- (c) **Consent of Participant.** That prior to the event, where the event is a race or other competitive athletic event or sport, the applicant shall obtain from each participant a Release, Waiver and Indemnity of the City from any and all claims resulting from the event, satisfactory to the City and file such Releases with the City;

(c) **Alternative Route.**

- (i) That no property owner or resident adjacent to the highway closed to vehicular traffic shall, because of the temporary highway closing and the event, be denied access by foot to their property. Further, the applicant shall take all reasonable action required to ensure the safety of and minimize interference with owners, tenants, and occupants of adjoining properties;
- (ii) That where a highway or portion thereof is so closed, the applicant shall provide and keep in repair within the portion of the highway closed to vehicular traffic, to the extent required, a reasonable temporary route satisfactory to staff for the use of emergency vehicles and for all property owners to obtain pedestrian access to their property;

(Note: The Municipal Act states that, with necessary modification, "Where a highway or portion thereof is closed by by-law under this paragraph, the municipality shall provide and keep in repair a reasonable temporary alternative route for traffic and for all property owners who cannot obtain access to their property by reason of such closing." Municipal Act, R.S.O. 1990, c.45, section 207(44)(a))

- (d) **Supervision, Inspection, and Inspection Fees.** That all temporary closings be carried out under the direction of and satisfactory to staff; the applicant shall not in advance or during the event erect any traffic or parking signs upon or adjacent to the highway.
- (e) **Other By-Laws.** That the applicant comply with the other by-laws of the City and the Region, including The Noise Control By-law and the bylaw titled, The City of Hamilton Licensing Code.
- (f) **Other Requirements.** That the applicant comply with such other conditions that may be specified in writing as a condition of approval and such additional conditions that may be required in writing or verbally by the City before or during the event;
- (g) **During the temporary closing of highway.**
 - (i) That the applicant use only the permitted part(s) of a highway in accordance with the terms of the Permit, the conditions of approval and provisions of this By-law.
 - (ii) That regular reports shall be given by the applicant to the City of the progress of compliance with conditions for the event and subsequently, restoration of the highway;
 - (iii) That the temporary closings be carried out in a proper workmanlike manner, with all property precautions and safety measures for the protection of public and private property, including maintenance of all necessary warning lights and watchmen, all under the direction and to the satisfaction of staff;

- (iv) That the applicant not allow any portion of the event, including spectators, participants, vehicles, partitions, barricades, signs, or other equipment used in connection with the event, to block any fire hydrants, access/egress ramps, snow and garbage removal, or interfere with the installation, maintenance, or repair to any plant or equipment of the City, The Regional Municipality of Hamilton-Wentworth or any other utility in the City highway .
- (v) That the applicant not allow any of the applicant's event, its participants, spectators or equipment, to impede emergency vehicles;
- (vi) **Barricades and Detour Signs.** That prior to and during the closure of the highway to vehicular traffic, the City shall erect and maintain sufficient warning signs and devices to adequately warn the public of the occupation and obstruction of the highway, at each end of the highway or portion thereof so closed to traffic, and where an alternative route deviates therefrom, a barricade upon which an adequate warning device shall be exposed and in good working order continuously (except during full daylight), and at such points shall be erected detour signs indicating the alternative route and containing a notice that the highway is closed to traffic.

All barricading, temporary highway closure signs, detour signs warning signs and devices, including labour and materials for their construction, erection, maintenance and removal, shall provided by and at the expense of the applicant and the applicant shall pay the City those costs.
- (vii) That all barricading, detour signing equipment and other property of the applicant and traffic control be subject to the direction of the Chief of Police or his/her designate;
- (ix) That if it is necessary for the City to relocate, remove or alter the signs, barricades or other equipment or property of the applicant for any reason whatsoever, either before, during or after the event, the applicant shall re-imburse the City against such costs and against any loss, cost or damage arising from such work;
- (x) That the applicant comply with all other provisions of the Streets By-law and obtain all other applicable approvals to the temporary closing and the event;
- (h) **After event.** That the applicant, at its expense, carry out clean up operations immediately after the event to restore the highway to as good condition as before as expeditiously as possible and before re-opening of the highway(s) to vehicular traffic.

The applicant, upon demand, after the event, pay to the City all costs incurred by the City pursuant to this by-law in excess of the cost pre-estimate monies or security already received by the City, (if any).

(16) In the event of non-compliance with the provisions herein, by any person, an Order to Comply may be issued and served upon such person, by,

- (a) the City Clerk or any authorized by-law enforcement officer for the City; or
- (b) the Chief of the Fire Department, or the Chief Fire Prevention Officer, or any Officer or Inspector of the Fire Department; or
- (c) the Chief of Police or any other police constable.

(17) Every person to whom an Order to Comply is issued, or upon whom an Order to Comply is served, shall, forthwith, take such steps as are necessary to comply with the Order within the time provided for compliance.

(18) Where any holder of a permit fails to comply with an Order to Comply issued pursuant to this by-law, in addition to any other remedy or penalty under this by-law, the City may immediately revoke their permit and shall forthwith cause them to be served with a written notice of such revocation and upon service of the notice of revocation the permit holder shall forthwith surrender the permit to the City.

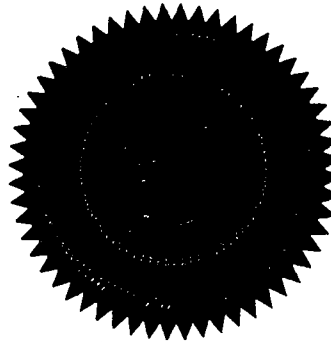
2. This by-law comes into force and effect on the date of its passing and enactment in respect of all applications submitted to the City on or after the said date.

3. Except as amended herein, Streets By-law No. 86-77 is hereby confirmed.

PASSED this 9th day of July A.D. 1996

D. J. Hollomell

Acting CITY CLERK



P. J. B. B. B.
Acting MAYOR

Bill No. A-71

The Corporation of the City of Hamilton

BY-LAW NO. 96-205

To Amend

By-law No. 86-77

**TO REGULATE USAGE OF HEDGES, SHRUBS
AND PLANT MATERIAL ON ROAD ALLOWANCES**

WHEREAS Subsection 308(3) of the Municipal Act, R.S.O. 1990, c. M.45, as amended, authorizes the council of every municipality to pass by-laws for placing or permitting any person under such conditions as may be agreed upon to place, construct, install, maintain, and use objects in, on, under or over highways under its jurisdiction, to permit any person to make, maintain and use areas under and openings in the highways, for prescribing the terms and conditions upon which the same are to be placed, constructed, installed, maintained or used and for making such annual or other charge for the privilege conferred by the by-law as it considers reasonable;

AND WHEREAS Subsection 314(1) of the Municipal Act, R.S.O. 1990, c. M.45 as amended authorizes the councils of all municipalities to pass by-laws for prohibiting or regulating the obstructing, encumbering, injuring or fouling of highways or bridges;

AND WHEREAS the Council of The Corporation of the City of Hamilton passed By-law No. 9329 on the 9th day of May, 1961, being the Streets By-law, to regulate, among other things, the planting of trees and shrubs along the boulevards and road allowances in the City of Hamilton;

AND WHEREAS By-law No. 86-77 was enacted on the 25th day of February, 1986 to consolidate the Streets By-law No. 9329;

AND WHEREAS By-law No. 88-244 was passed on the 5th day of October, 1988 to amend By-law No. 86-77 on the planting of trees and shrubs on boulevards and the road allowance;

AND WHEREAS By-law No. 88-244 was repealed by By-law No. 92-155;

AND WHEREAS City Council, on July 9, 1996, in adopting Section 12 of the 10th Report of the Transport and Environment Committee authorized this By-law;

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

1. (1) Paragraph (d) of Section 1 of By-law No. 86-77 is amended by deleting paragraph (d) and substituting in lieu,
 - (d) "Director of Public Works" shall mean the "Commissioner of Public Works and Traffic".
- (2) Paragraph (e) of Section 1 of By-law No. 86-77 is further amended by deleting paragraph (e) and substituting in lieu,
 - (e) "Traffic Commissioner" shall mean the "Commissioner of Public Works and Traffic".

2. By-law No. 86-77 is amended by the addition of the following Section:

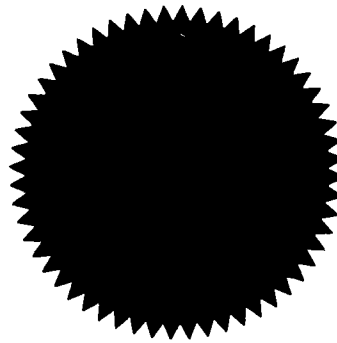
OWNERS OF LAND MAY PLANT HEDGES AND SHRUBS

5. (1) Hedges, shrubs and other plant material may be permitted on the boulevard of the highway provided that any such hedge, shrub or other plant material situated within the highway
- (i) shall not create an obstruction to traffic using the highway;
 - (ii) shall be maintained by the owner of the land abutting the highway at not higher than 76 cm or 30 inches in height;
 - (iii) shall not overhang the sidewalk, shoulder or roadway;
 - (iv) shall maintain a minimum clearance of 0.6 metres or 2 feet from a fire hydrant, and
 - (v) shall not obstruct the view of a fire hydrant from the road.
- (2) Where an owner of land abutting a highway has planted a tree on the boulevard of a highway, the tree shall be pruned to the trunk for the first 2.4 metres or 8 feet by the Department of Public Works and Traffic.

PASSED this 10th day of December, 1996.



CITY CLERK



MAYOR

The Corporation of the City of Hamilton

By-law No. 97-162

To Amend:

By-law No. 86-77
The Streets By-law

Respecting:

PANHANDLING

WHEREAS paragraph 140, Section 210 of the Municipal Act, R.S.O. 1990, Chapter M.45 authorizes municipalities to enact by-laws to regulate public nuisances;

AND WHEREAS Section 102 of the Municipal Act allows that every council may pass such by-laws and make such regulations for the health, safety, morality and welfare of the inhabitants of the municipality in matters not specifically provided for by the Municipal Act as may be deemed expedient and are not contrary to law;

AND WHEREAS the Council of the City of Hamilton deems it necessary to ensure citizens reasonably unencumbered access to pedestrian walkways within the City of Hamilton;

AND WHEREAS Council, on Thursday, 1997 August 7th, in adopting Section One of the Seventeenth Report for 1997 of the Finance and Administration Committee authorized this By-law;

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

Section 16 of By-law No. 86-77 is amended by the addition of the following subsections:

(12) 12.1 For the purposes of this subsection:

- (a) "*cease*" means to stop or bring to an end.
- (b) "*congregate*" means to gather into a group of more than one person.
- (c) "*obstruct*" means to interfere with or make difficult of passage.
- (d) "*officer*" means a sworn member of the Hamilton-Wentworth Regional Police Service or a municipal by-law enforcement officer appointed by the City of Hamilton.

General:

12.2 No person shall congregate and sit or stand so as to obstruct the free passage of either pedestrian or vehicular traffic on any streets or sidewalks regulated by this By-law.

12.3 Any person who obstructs pedestrian or vehicular traffic on a sidewalk or street shall, when directed to do so by an officer, cease such obstruction.

Exclusions:

- 12.4 Any parade, festive occasion or other event approved by the City of Hamilton shall be excluded from the provisions of this subsection.

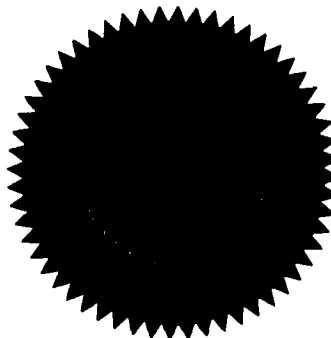
Enforcement:

- 12.5 Sworn members of the Hamilton-Wentworth Regional Police Service and municipal by-law enforcement officers of the City of Hamilton are authorized to enforce the provisions of this by-law.
- (13) 13.1 For the purposes of this subsection, "aggressive panhandling" means:
- (a) approaching, speaking to or following a person for the purpose of entreating or urging that person to give money, in such a manner as would cause a reasonable person to fear bodily harm or harm to property on the person's immediate possession;
 - (b) touching a person without their consent while panhandling from such person;
 - (c) repeatedly panhandling from a person, or following a person after a person has made a negative response; or
 - (d) panhandling by standing, sitting or otherwise in such a manner so as to intentionally block, obstruct or interfere with the safe passage of pedestrians or vehicles, including unreasonably causing a person or vehicle to take evasive action to avoid physical contact.
- 13.2 No person shall aggressively panhandle on any streets or sidewalks regulated by this by-law.
- 13.3 No person shall solicit money from any pedestrian by panhandling on any streets or sidewalks regulated by this by-law in such a manner as to interfere with the ability of pedestrians to enter business establishments located on such streets.

PASSED this 7th day of August 1997.



CITY CLERK



MAYOR

Authority: Item 4, Committee of the Whole
Report 03-028 (PW03130/PD03226)
CM: October 15, 2003

Bill No. 296

**CITY OF HAMILTON
By-law No. 03-296
Being a By-law to provide for the removal of snow and ice from
roofs and sidewalks**

WHEREAS Section 130 of the Municipal Act, Chapter 25, S.O. 2001, provides that a municipality may regulate matters related to the health, safety, and well-being of the inhabitants of the municipality;

AND WHEREAS the City of Hamilton Act, 1999, SO. 1999 Chapter 14, Schedule C did incorporate, as of January 1st, 2001, the municipality of the "City of Hamilton";

AND WHEREAS the City of Hamilton Act, 1999, provides that the By-laws of the former municipalities continue in force and effect in the City of Hamilton until subsequently amended or repealed by the Council of the City of Hamilton;

AND WHEREAS the Council for the City of Hamilton deems it expedient to enact a single By-law to provide for the removal of snow and ice from roofs and sidewalks, in place of By-laws of the former area municipalities;

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

Definitions

1. In this By-law,
 - (a) "City" means the City of Hamilton;
 - (b) "Council" means the council for the City of Hamilton;
 - (c) "Consecutive winter storm events" refers to any precipitation and/or accumulation of snow or ice from the beginning of the original winter snow event, and any subsequent storm events occurring within a 24 hour period of the cessation of the previous storm event;
 - (d) "Director" means the Director of the Operations and Maintenance Division of the Public Works Department for the City, and includes his designate and successor;
 - (e) "Highway" means a common and public highway under the jurisdiction of the City of Hamilton, and includes a street, sidewalk, boulevard whether paved or not paved, an unopened road allowance, and any portion of the land situated between street lines;

- (f) "Winter Storm Event" refers to any precipitation and/or accumulation of snow or ice.
- 2. In this By-law, whenever a word imparts the masculine gender it is deemed to include the feminine gender;
- 3. In this By-law, the singular sense is deemed to be inclusive and interchangeable with the plural sense

Application of By-law

- 4. The provisions of this By-law shall apply to all lands within the boundaries of the City, except for those areas designated as being exempt by the Director.

General Duties, Obligations, and Prohibitions

- 5. That every occupant or owner shall, within 24 hours of the cessation of a Winter Storm Event, or within 24 hours of the cessation of a series of Consecutive winter storm events, remove and clear all snow and ice from sidewalks abutting the highways in front of, or along side, or at the rear of any occupied or unoccupied lot, or vacant lot;
- 6. All owners or occupants of buildings where the roof or eaves of which abut or overhang the highway or sidewalk upon the highway shall, whenever ice or snow accumulates on the roof or eaves, remove the same immediately, and in a manner showing due care and precaution for the safety of persons passing.
- 7. No owner or occupant shall throw, place, bring, or deposit snow or ice:
 - (a) On or immediately adjacent to a fire hydrant, or in any manner that obstructs access to a fire hydrant;
 - (b) On or adjacent to a travelled portion of the highway, or in such a manner so as to interfere with the safe passage of vehicles, or pedestrians, or obstruct the visibility of vehicle operators or pedestrians
 - (c) In such a manner so as to obstruct drainage to any drain or sewer
- 8. That if the owner or occupant fails, neglects, or refuses to comply with Sections 5, 6, and 7 of this By-law, the Director in lieu of, or in addition to any other remedy provided by this By-law, is authorized to have the snow or ice to be removed at the expense of the owner or occupant, and in the case of non-payment, such expenses may be recovered in a like manner as municipal taxes.

Enforcement

- 9. Any Police Officer, Municipal Law Enforcement Officer, or employee of the City designated by the Director for the purpose of this Section is authorized to inform any person of the provisions of this By-law and to request compliance therewith;

10. Any Police Officer, Municipal Law Enforcement Officer, or employee of the City designated by the Director for the purpose of this Section is authorized to order any person believed by such Officer or employee to be in contravention of this By-law to desist from the activity consisting or contributing to such contravention;

Penalty

11. Any person contravening any provision of this By-law is guilty of an offence and upon conviction, is liable to such penalty as provided for under the Provincial Offences Act, R.S.O. 1990, Chapter P.33, as amended.

Severance

12. Should a court of competent jurisdiction declare any part or whole of any provision of this By-law to be invalid or of no force and effect, the provision or part shall be deemed to have been severed from this By-law, and it is the intention of Council that the remainder of the By-law survive and be applied and enforced in accordance with the terms to the extent possible under law.

Short Title

13. The short title of this By-law shall be "The Snow Removal By-law".

Repeals and Enactment

14. That By-law 88-152-S (Flamborough), By-law 86-77 (Hamilton) Section 7, By-law 4114-93 (Dundas), By-law 434-90 (Glanbrook), By-law 4477-96 (Stoney Creek), and By-law R77-109 (Regional Roads By-law) be repealed.
15. Any references to By-laws 88-152-S, 86-77, 4114-93, 434-90, 4477-96, and R77-109, as amended, antedating the passing and enactment of this By-law shall be deemed a reference to this By-law.
16. This By-law shall come into force and effect on the date of its passing and enactment.

PASSED AND ENACTED this 15TH day of October, 2003.


MAYOR


CLERK

Authority: Item 13, Public Works, Infrastructure
and Environment Committee
Report 06-010 (PW06034a)
CM: June 14, 2006

Bill No. 151

CITY OF HAMILTON

BY-LAW NO. 06-151

To Regulate the Planting, Maintenance, and Preservation of Trees on or Affecting Public Property

WHEREAS Council deems it in the public interest to protect Hamilton's tree assets on Public Property to preserve the quality of life and environment for the present and future inhabitants, and to ensure that any necessary tree removal is considered in advance and carried out under conditions as may be imposed;

AND WHEREAS *the Municipal Act S.O. 2001, Chapter 25* as amended, Sections 2 and 8 through 11, allows that Council may provide necessary and desirable services, manage and preserve public assets, foster environmental well-being, and exercise specific and general powers to act, and to regulate and prohibit the acts of others;

AND WHEREAS the City, pursuant to Section 135 of *the Municipal Act S.O. 2001, Chapter 25* may by by-law prohibit or regulate the injuring or destruction of trees;

AND WHEREAS the City, pursuant to Section 141 of *the Municipal Act* may provide trees to the owners of land adjacent to any highway;

AND WHEREAS the City, pursuant to Section 62(1) of *the Municipal Act* may, at any reasonable time, enter upon land lying along any of its highways to inspect trees and conduct tests on trees; and to remove decayed, damaged, or dangerous trees or branches of trees if, in the opinion of the municipality, the trees or branches pose a danger to the health or safety of any person using the highway;

AND WHEREAS the City, pursuant to Section 62(2) of *the Municipal Act* may remove a decayed, damaged or dangerous tree or branch of a tree immediately without notice to the owner of the land upon which the tree is located, if in the opinion of the Employee or agent, the tree or branch poses an immediate danger to the health or safety of any person using the highway;

AND WHEREAS *the City of Hamilton Act, 1999, S.O. 1999, Chapter 14, Schedule C* did incorporate, as of January 1st 2001, the municipality known as the "City of Hamilton";

AND WHEREAS the City of Hamilton is the successor to the following former area municipalities, namely: The Corporation of the Town of Ancaster; The Corporation of the Town of Dundas; the Corporation of the Town of Flamborough; The Township of Glanbrook; The Corporation of the City of Hamilton; and the Corporation of the City of

Stoney Creek, and to the Regional Municipality of Hamilton-Wentworth, all hereinafter referred to as the "former municipalities";

AND WHEREAS *the City of Hamilton Act, 1999*, provides that the By-laws of the former municipalities continue in force and effect in the City of Hamilton until subsequently amended or repealed by the Council of the City of Hamilton;

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

Definitions and Application

1(1) In this By-law:

- (a) "City" as the context requires, means the municipal corporation "City of Hamilton" or the geographical limits of the municipality;
- (b) "Contractor" means a person engaged to perform a specific activity or service, on or at a particular land or premises;
- (c) "Council" means the Council for the City of Hamilton and includes its successor;
- (d) "Destroy" in relation to a tree includes any action which causes or results in the death of the tree, not limited to but including the acts of cutting, burning or knocking over the tree, and "destruction" shall have a corresponding meaning;
- (e) "Diameter at Breast Height or "DBH" means the diameter, including the bark, of the trunk of a tree measured at the lower of (a) a point 1.3 meters (4 feet and 3 inches) above the ground in an undisturbed state at the base of the tree, (b) in the case where the main trunk of the tree splits below the point in (a) the point of measurement shall be at the point on the tree trunk where the trunk separates, or (c) at the top of the stump of the tree where the tree has been cut down and all that remains of the stump is below the point in (a);
- (f) "Director" means the Director of Operations and Maintenance for the City and includes the Director's designate or successor;
- (g) "Drip Line" means the outer boundary of an area on the surface of the ground directly below and which corresponds with the outer edge of the crown of the tree;
- (h) "Emergency Work" means any work carried out by the City, a public utility service, or other authority and its contractors, whether above and below ground level, which is work necessary in an emergency situation for maintenance, or to restore or ensure service is maintained, and specifically includes the following whether as a repair, upgrade, or new installation, and without limiting the generality of the foregoing: utility

work, storm or accident damage repairs, road work, storm sewer and sanitary sewer work;

- (i) "Employee" means all employees, servants, and agents of the City of Hamilton or contractors hired by the City of Hamilton;
- (j) "Forestry and Horticulture Section" means the Forestry and Horticulture Section of the Operations and Maintenance Division within the Public Works Department of the City of Hamilton and includes its successor;
- (k) "Forestry Management Plan" refers to all City of Hamilton policies and procedures governing forest health, tree maintenance, planting requirements, activities affecting public trees, and includes the policies attached to this By-law as schedules;
- (l) "Good Arboricultural Practice" shall be a reference to the guidelines and practices relating to proper tree maintenance and care, as defined and published by the ISA (International Society of Arboriculture);
- (m) "Highway" means a common and public highway under the jurisdiction of the City of Hamilton, and includes any bridge, trestle, viaduct or other structure forming part of a highway, and includes any portion of a highway to the full width thereof;
- (n) "Improper Pruning" means trimming a tree so as to cause irreversible damage in a manner contrary to Good Arboricultural Practices;
- (o) "Injure" includes any act or treatment which causes irreversible damage to a tree and includes, but is not limited to the acts of changing grades around trees so as to affect further growth or health of the tree by exposing roots or burying the trunk or branches, compacting soil over root areas so as to prevent sufficient absorption by the tree of water, severing or damaging roots, the improper application of chemicals, improper pruning or the removal of bark and "injuring" and "injury" shall have corresponding meanings;
- (p) "Municipal Law Enforcement Officer" means a person appointed as such under this or any by-law of the City;
- (q) "Naturalized Area" means an area that has been set aside by the City of Hamilton for the undisturbed growth of any tree species where the desired effect is that of natural growth, and for the purposes of this By-law the term will include municipal woodlots and woodlands;
- (r) "Officer" means any person designated by the Director to carry out duties, issue orders or take actions under this By-law, and the term includes the Director;

- (s) "Operations and Maintenance Division" refers to the Operations and Maintenance Division of the Public Works Department of the City of Hamilton and includes its successor;
- (t) "Pest" means any organism, including but not limited to such things as insects or diseases whether viral, fungal, or bacterial, which directly or indirectly cause irreversible damage to the long-term health, vitality, longevity, and integrity of a tree;
- (u) "Planning and Economic Development Department" refers to the Planning and Economic Development Department for the City of Hamilton and includes its successor;
- (v) "Private Property" means land other than public property, and includes those public unassumed alleys which have been occupied or fenced by a person other than the City;
- (w) "Private Tree" means any tree which has greater than fifty (50) per cent of its trunk diameter measured at ground level on private property;
- (x) "Pruning" means the cutting away of parts of a tree for reasons including but not limited to: safety concerns; maintenance of legislated clearances; tree health and vitality; disease control; clearance for pedestrian and vehicular traffic; visibility clearance for stop signs, traffic signals, and bus stops; clearance for buildings; removal of deadwood; crown thinning for tree health or to improve sunlight penetration; crown balancing to correct storm damage; crown reduction when overall size is considered problematic; or clearance from hydro lines and other utilities;
- (y) "Public Property" includes a highway, park, public unassumed alley, or any other public place or land owned by, or leased to, or controlled by, or vested in, the City;
- (z) "Public Tree" means any tree which has greater than or equal to fifty (50) per cent of its trunk diameter measured at ground level on public property, and "public tree" shall be used interchangeably with "municipal tree", "municipally owned tree", "City tree" or "City owned tree";
- (aa) "Public Works Department" means the Public Works Department for the City of Hamilton and includes its successor;
- (bb) "Removal" means the elimination, in whole or in part, of a tree;
- (cc) "Tree" means a plant of any species of woody perennial including its root system, which has reached or can reach a height of at least 4.5 metres at physiological maturity;

- (dd) "Tree Maintenance" includes all operations of watering, trimming, pruning, spraying, injecting, fertilizing, treating, cabling and bracing, and any other like activity;
 - (ee) "Tree Protection Zone (TPZ)" means a restricted area, enclosed by fencing, around the base of a tree with a minimum radius equal to the drip line, which serves to protect a tree and its root zone;
 - (ff) "Work" means the labour, task, duty, function, or assignment often being a part or a phase of a larger activity or project, and shall include, but not be restricted to, excavation, construction, development, ditching, tunnelling, trenching, soil disturbances, or compaction.
- 1(2) In this By-law, the singular tense is deemed to be inclusive and interchangeable with the plural tense; the plural tense is deemed to be inclusive and interchangeable with the singular tense.
- 1(3) In this By-law, where both metric and imperial measurements are given for the same item, the imperial measurement is provided for convenience only and is approximate.
- 2(1) Subject to subsection 2(2), this By-law applies to:
- (a) Persons within the City of Hamilton;
 - (b) Public trees; and
 - (c) Private trees, which pose a threat or hazard to persons or property on public property.
- 2(2) This By-law does not apply to:
- (a) Trees in private woodlands, as woodlands are defined in By-law No. R00-054 of the former Regional Municipality of Hamilton-Wentworth, or such successor by-law enacted under the authority of Section 135 of *the Municipal Act*;
 - (b) Woodlots, as defined in By-law No. 4401-96, as amended of the former City of Stoney Creek; or
 - (c) The matters listed in sub-section 135(12) of the Municipal Act.
- 2(3) The requirements and prohibitions in this By-law are in addition to any applicable prohibitions or requirements in the City of Hamilton Parks By-law No. 01-219 as amended, and in the event of conflict, the provisions which are most protective of trees prevail.

Authority of the Director

- 3(1) The Director is hereby authorized to administer and enforce this By-law and has delegate authority granted by Council to execute the provisions of this By-law or to provide consent or approval where required, including the imposition of conditions as necessary to ensure compliance with this By-law and ensure minimal removal or other negative effects from removal of trees.
- 3(2) The Director may request municipal law enforcement officers to enforce this By-law, who shall have the authority to carry out inspections, issue orders, and otherwise enforce this By-law, and the Director may assign duties or delegate tasks under this By-law whether in his or her absence or otherwise.
- 4 The Director has the authority to develop and maintain a Forestry Management Plan including level of service standards and practices / guidelines.
- 5 Where consent of the Director is required under this By-law, and where permission or approval has been refused, or where permission or approval has been granted and subsequently withdrawn, written justification must be provided to the individual detailing the basis for not granting approval.
- 6 In addition to the authority otherwise provided in this By-law and subject to the Council authorized budget, the Director is authorized to perform or arrange the performance of the following duties:
 - (a) Supervision of the planting, care, and maintenance of public trees;
 - (b) Supervision of the pruning or removal of trees:
 - (i) Upon public property;
 - (ii) Upon private property where the branches extend over public property and the removal is performed by City employees or contractors; or
 - (iii) Upon a highway where the branches of any public or private tree extend over a highway and the removal is performed by City employees or contractors.
- 7 The Director, once designated as an inspector by the President of the Canadian Food Inspection Agency, for the purposes of the *Plant Protection Act*, S. C. 1990, c.22, has the authority to inspect for the presence of pests and to take action including the removal of trees on all public and private property, in accordance with that Act.

Prohibitions Against Injury or Destruction

- 8 No Person shall undertake to or cause or permit the undertaking of any of the following actions towards a public tree:

- (a) Injure, remove, disturb, damage, destroy, cut above or below ground, spray, prune, or alter in any way a public tree; without prior approval and compliance with terms provided in Section 10, or as provided for in the City of Hamilton Public Tree Removal Policy; or
 - (b) Deposit, place, store, or maintain any stone, brick, sand, concrete, soil, or any material, equipment, or vehicles that may impede the free passage of water, air, or nutrients to the roots of a public tree, or perform any work within the dripline of a public tree which causes the destruction of, removal of, or injury to the tree, without prior approval and compliance with terms provided in Section 10; or
 - (c) Fasten any sign, bill, notice, wire, rope, nail, or other object to, around, on, or through any public tree in any manner, or around, on or through the stakes or posts that protect such tree; or
 - (d) Cause or permit any gaseous, liquid, or solid substances which are harmful or toxic to any public tree, to come in contact with any public tree, or apply to a public tree or an area used by said tree's root system; or
 - (e) Set fire to or permit any fire to burn where such fire or the heat thereof will injure any portion of any public tree; or
 - (f) Interfere with fences, structures, barriers delineating tree protection zones, or associated signage or other protective devices around any public tree; or
 - (g) Alter or change any soil levels on public property within the drip line of any public tree in a manner likely to cause injury to said tree; without prior approval and compliance with terms provided in Section 10; or
 - (h) Excavate any ditch, tunnel, trench, or lay any walkway or driveway, or disturb the soil on public property, within the drip line of a public tree; without prior approval and compliance with terms provided in Section 10; or
 - (i) Climb, or permit any person under their care or control to climb any public tree.
- 9(1) A person who damages or injures a public tree on public property or who causes or permits a person to damage or injure such a tree, shall be subject to the regulations listed in the City of Hamilton Reforestation Policy – Municipally Owned Lands in addition to any necessary enforcement under this By-law.
- 9(2) Where a person reports having injured or damaged a public tree, or where a person is found to have injured or damaged a public tree, the Director shall issue an order requiring that the person arrange for the payment of restitution in accordance with the regulations of the City of Hamilton Reforestation Policy –

Municipally Owned Lands, in addition to any necessary enforcement of this By-law.

Protective Measures For Trees During Construction

- 10 Any person undertaking to perform any work within the drip line of a public tree, requires the consent of the Director, and shall follow the regulations and conditions listed in the City of Hamilton Tree Preservation and Protective Measures For Trees Affected by Construction Policy and otherwise shall comply with any conditions imposed through the Director's consent.

Planting of Trees

Prohibited Species

- 11(1) No person shall plant or place, or cause or permit the planting or placing of a tree of the type or species listed below upon public property:
- (a) *Acer negundo* - Manitoba Maple;
 - (b) *Acer saccharinum* - Silver Maple;
 - (c) *Populus* spp. - Poplar Species;
 - (d) *Salix* spp. - Willow Species;
 - (e) *Ulmus pumila* - Siberian Elm; or
 - (f) *Ginkgo biloba* - Female only.
- 11(2) Unless authorized by the Director in writing, no person shall plant or place, or cause or permit the planting or placing of any coniferous trees upon public property.

Planting Trees on Public Property

- 12(1) No person shall, without prior written consent of the Director, plant or cause to be planted any tree on public property.
- 12(2) The City reserves the right, at its sole discretion, to plant, or to have planted trees on any portion of public property.
- 12(3) All trees planted by the City of Hamilton, or by any contractor or person on public property, are subject to this By-law, the City of Hamilton Street Tree Planting Policy – New Developments; and the City of Hamilton Street Tree Planting Policy – Planning & Design.
- 12(4) Any Tree planted or located on a highway is deemed to be a public tree and is subject to all the provisions and regulations contained in this By-law as well as

to the City of Hamilton Street Tree Planting Policy – New Developments; City of Hamilton Street Tree Planting Policy - Planning & Design; and the City of Hamilton Street Tree Planting Policy – Rural Roadways.

13(1) Notwithstanding Section 12;

- (a) Any tree planted on public property with or without the consent of the Director, is the property of the City, is deemed to be a public tree, and is subject to all terms and conditions as set out in this By-law;
- (b) For greater certainty, a tree referred to in subsection (a) above may be treated as a public tree or removed as provided for in this By-law, and in particular, any tree removed by the City may be removed without compensation owing by the City, and if removed by someone other than the City without the required permission for removal by the City, may result in enforcement, claims for compensation, and replanting costs and orders, and if such tree planted is a prohibited species, may be removed by the City or its contractors at the expense of the person planting or causing such planting to occur.

Tree Planting on Private Property

- 14(1) Any tree planted on private property, whether planted by the City or by any other person, is the property of the land owner and as such is the owner's sole responsibility.
- 14(2) The owner of property on which a private tree is standing shall not permit or leave the tree or branches thereof projecting over the highway in such manner as to obstruct the reasonable and safe use of the highway.

Removal of Trees

- 15 All authorized public tree removals and all private tree removals or pruning carried out by or on behalf of the City shall be performed by the City or by a contractor approved by the Director.
- 16 Excluding those public tree removals performed as "necessary for the public interest", as that phrase is defined in Section 18:
 - (a) The removal of all live, healthy public trees shall be subject to the provisions of the City of Hamilton Reforestation Policy - Municipally Owned Lands; and the City of Hamilton Public Tree Removal Policy;
 - (b) A person removing, injuring or damaging a public tree, where the Director in his sole discretion, decides that the tree needs to be replaced, shall, in addition to any enforcement of this By-law, be subject to the requirements of the City of Hamilton Reforestation Policy.

Public Tree Removals

- 17 The Director is authorized to remove or cause to be removed a tree or part thereof on public property when it is considered "necessary for the public interest", as that phrase is defined in Section 18, or in accordance with the City of Hamilton Public Tree Removal Policy.

Necessary for the Public Interest

- 18 For the purpose of Section 17, "necessary for the public interest" means removal for one or more of the following reasons:
- (a) A tree is decayed in whole or in part;
 - (b) A tree that has failed, or in its current physiological condition has the potential to fail, and by its failure, or potential failure, poses a direct and immediate threat to public property or to individuals using public property;
 - (c) A tree that is a source, host, or infested with any pest which directly or indirectly causes irreversible damage to the long-term health, vitality, longevity, and integrity of a tree;
 - (d) A tree whose structural value, or integrity, as determined by the Director, has been seriously compromised by construction, weather related events, or by pruning;
 - (e) A tree planted along a highway which obstructs or impedes the safe use of the same;
 - (f) A tree whose root system has been proven to compromise the structural integrity of the foundation of any building; or
 - (g) A tree of poor quality, or undesirable species whose removal is required to facilitate new street tree plantings.

Naturalized Areas

- 19(1) No person shall remove, or cause, or permit the removal of any public tree that has fallen in a naturalized area from such area.
- 19(2) Any public tree that has fallen in a naturalized area and impedes on the use of public property may be cut back by the City of Hamilton so as to provide safe access and use of the public property, however, the tree will not be removed from the area.

Private Trees

- 20(1) Subsections (2) and (3) of this section do not apply where the City does not enter private property for its property or highway maintenance purposes, and in particular do not apply when the City, from its own property, removes the portions of private trees growing upon or over its property and highways for the purposes of property or highway maintenance so as to ensure reasonable or appropriate use of the property or highway as determined solely by the City and the elimination of dangers or obstructions for users of the City properties or highways; and further, any rights or permissions granted in this or any by-law to persons to maintain trees on private property or part of the road allowance, or other public property shall be subject to this provision for needs or maintenance purposes and so as to allow the City to meet the legal obligations to maintain its highways and carry out its intentions towards use of its properties for its own and the public benefit.
- 20(2) Pursuant to section 62 of the *Municipal Act, 2001* and in accordance with section 431 of that Act where required, a municipal employee or a contractor of the municipality, for the purpose of tree trimming in relation to highways or for the maintenance of highways, may where necessary, at any reasonable time, enter on lands adjacent to any of its highways to:
- (a) inspect or conduct tests on trees; or
 - (b) remove decayed, damaged or dangerous trees or their branches, where in the opinion of the employee or contractor, the tree or branch poses a danger to the health and safety of any person using the highway.
- 20(3) Pursuant to subsection 62(2) of the *Municipal Act, 2001* a municipal employee or a contractor, where such person is of the opinion that a tree or branch of land adjacent to the highway poses an immediate danger to the health and safety of any person using the highway, where necessary and in accordance with paragraphs (b), (c) or (d) of section 431 of that Act where required, may enter the land without notice to remove the tree or branch.
- 20(4) Subsections 20(2) and (3) do not permit entry into a building on the land excepting where proper notices have been given or permissions obtained.
- 20(5) The owner of private property shall ensure that all trees growing partially on public property are maintained in good condition and state of repair, free of decay or damage, such that the tree or branches thereof do not pose a danger to persons on City properties or its highways.
- 20(6) The obligations in subsection 20(5) shall be deemed to include the requirement of the owner to cause or carry out such inspections and testing as are reasonably necessary to determine the condition of the private tree and its branches.

Regulations and Enforcement

Exclusions and Exceptions

- 21 The provisions of this By-law shall not apply to:
- (a) The employees of the City of Hamilton while engaged in the performance of their duties;
 - (b) The operators, drivers and attendants of authorized emergency services vehicles, Police Officers, Officers of the Hamilton Fire Service, or Municipal Law Enforcement Officers appointed by the Council of the City of Hamilton, while engaged in the performance of their duties; or
 - (c) The operators, drivers and attendants of authorized public utility companies including, but not limited to, a natural gas utility, a hydro electric provider, and any other public utility, or telecommunication company, provided that their vehicles and crews are clearly identified by a crest or other marking and provided the operator, driver or attendant is actively engaged in the provision of any emergency services offered by the utility.

Enforcement

- 22 A Municipal Law Enforcement Officer, an employee of the City designated as an officer by the Director for the purpose of this Section or a police officer is authorized to inform any person of the provisions of this By-law, to issue warnings or notices, and to issue an order for discontinuance or for compliance therewith in the terms and content required by Section 137 of the *Municipal Act*, S. O. 2001, c. 25.
- 23(1) A Municipal Law Enforcement Officer or police officer may enforce the provisions of this By-law.
- 23(2) An officer appointed for the purposes of this By-law may be issued identification by the Director for purposes including the issuing of orders.

Penalty and Remedies for Breach or Contravention

- 24 Any Person contravening any provision of this By-law or contravening an order to discontinue issued under this By-law pursuant to section 137 of the *Municipal Act* is guilty of an offence, and upon conviction is liable to the fines and obligations for replanting and rehabilitation specified in Section 138 of the *Municipal Act*, S.O. 2001, Chapter 25.
- 25(1) In addition to any other remedy and to any penalty imposed by the By-law, a court in which a conviction has been entered under this By-law, and any court of competent jurisdiction thereafter may:
- (a) Make an Order prohibiting the continuation or repetition of the offence by the person convicted; and

- (b) Order the person to rehabilitate the land or to plant or replant trees in such a manner and within such period as the court considers appropriate, including any silvicultural treatment necessary to re-establish the trees.

25(2) Where under this By-law a person is required or directed that a matter or thing be done and the person defaults or otherwise fails to comply, the Director may, pursuant to section 427 of the *Municipal Act, 2001*, carry out the thing or cause the matter to be done at the person's expense, and recover the City's costs as defined in that section by action or by adding the costs to the tax roll for the person and collecting them in the same manner as taxes.

Severance

26 Should a court of competent jurisdiction declare a part or whole of any provision of this By-law to be invalid or of no force or effect, the provision or part is deemed severable from this By-law, and it is the intention of Council that the remainder survive and be applied and enforced in accordance with its remaining terms to the extent possible under law.

Short Title

27 The Short Title of this By-law shall be "The City of Hamilton Public Trees By-law".

Repeals and Enactment

28(1) The following By-laws of the former area municipalities, as may be amended, are hereby repealed: By-law No. 4156-95 (Stoney Creek), By-law No. 91-36-P (Flamborough), By-law No. 4502-99 (Dundas), By-law No. 4486-99 (Dundas), By-law No. 241-82 (Glanbrook), and By-law No. 92-155 (Hamilton).

28(2) By-law No. 86-077 (Hamilton Streets By-law), as may be amended, is hereby further amended in the following respects:

- (a) At the beginning of subsection 4(2), deleting the words "Subject to the provisions of this By-law respecting trees on highways, and";
- (b) Within subsection 4(2) repealing the words "grass, flowers and trees" and replacing them with the words "grass and flowers";
- (c) Section 5 of By-law No. 86-077 (Hamilton Streets By-law), as amended, is hereby repealed;
- (d) Sub-section 16(9) of By-law No. 86-077 (Hamilton Streets By-law), as may be amended, is hereby further amended by repealing the words "of trees" after the word "climbing"; and

- (e) In all other respects, By-law No. 86-77 (Hamilton) is confirmed without change.
- 28(3) By-law No. 328-86 (Glanbrook) as may be amended is hereby further amended by deleting “tree,” from clause 8(g), and in all other respects, By-law No. 328-86 (Glanbrook) is confirmed without change.
- 28(4) By-law No. 2000-118 (Ancaster) as may be amended, is hereby further amended in the following respects:
- (a) the title to By-law No. 2000-118 (Ancaster) is repealed and replaced with the following:

“Being a By-law to Prohibit the Injury or Destruction of Specified Classes of Trees on Private Property in the Geographic District of former Town of Ancaster in the City of Hamilton”;
 - (b) By-law No. 2000-118 (Ancaster) is further amended by repealing and replacing section 2.20 with the following:

“2.20 “Owner” means the owner as registered on title to the lands.”;
 - (c) By-law No. 2000-118 (Ancaster) is further amended by repealing and replacing section 2.31 with the following:

“2.31 “woodland” means any area of private land of 0.2 hectare (0.5 acres) or more with at least:

 - (i) 1000 trees per hectare (405 trees per acre) of any size;
 - (ii) 750 trees per hectare (303 trees per acre) measuring over 5 centimetres (2 inches) DBH;
 - (iii) 500 trees per hectare (202 trees per acre) measuring over 12 centimetres (5 inches) DBH; or
 - (iv) 250 trees per hectare (101 trees per acre) measuring over 20 centimetres (8 inches) DBH, not including orchards or plantations.

For the purposes of this By-law, the boundary of the woodland shall be defined by the ecological limit of the woodland and not by private property boundaries, and shall include the area up to the drip line of the woodland and any corridors measuring up to 30 metres in width. Where a potential woodlot is dissected by a corridor or natural feature such as a creek, the area of the woodlot shall be calculated exclusive of the area of the corridor or natural feature.”;

- (d) By-law No. 2000-118 (Ancaster) is further amended by repealing and replacing clause 3.1.2(i) with the following:
- “(i) Heritage Trees on private lands located outside of Woodlands;”;
- (e) By-law No. 2000-118 (Ancaster) is further amended by repealing and replacing clause 5.1.1(ii) with the following:
- “(ii) for the removal of Heritage Trees on private lands within 7.5 metres (25 feet) of the outer edge of an Occupied Building;”;
- (f) By-law No. 2000-118 (Ancaster) is further amended by repealing Sections 2.25, 5.1.2, 9.3.1, 9.3.2, 9.3.3, 9.3.4, 9.3.5 and 9.3.6 in their entirety; and
- (g) In all other respects By-law No. 2000-118 (Ancaster) is hereby confirmed without change.
- 28(5) By-law No. 4513-99 (Dundas) as may be amended, is hereby further amended by repealing and replacing subsection 3(e) with the following:
- “(e) Trees overhanging onto private land from abutting private lands are specifically included under the Control of this By-law.”
- 29 Further to Section 28, any references to the aforementioned By-laws and schedules in other City policies, signage or By-laws, as amended, antedating the passing and enactment of this By-law, shall be deemed a reference to this By-law.
- 30 This By-law shall come into force and take effect on the date of its passing and enactment.

PASSED and ENACTED this 14th day of June, 2006.



MAYOR

CLERK

Authority: Item 16, Planning and Economic
Development Committee
Report: 06-014 (PED05172(b))
CM: August 9, 2006

Bill No. 243

CITY OF HAMILTON

BY-LAW NO. 06-243

A By-Law Respecting Signs And Other Advertising Devices Within The City Of Hamilton

WHEREAS subsection 5(3) of the *Municipal Act, 2001*, S.O. 2001, c. 25, provides that a municipal power shall be exercised by by-law;

AND WHEREAS section 8 of the *Municipal Act, 2001*, S.O. 2001, c. 25, provides that a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under that or any other Act;

AND WHEREAS subsection 9(1) of the *Municipal Act, 2001*, S.O. 2001, c. 25, provides that section 8 of that Act shall be interpreted broadly so as to confer broad authority on municipalities to enable them to govern their affairs as they consider appropriate, and to enhance their ability to respond to municipal issues;

AND WHEREAS subsection 11(1), paragraph 1 of the *Municipal Act, 2001*, S.O. 2001, c. 25, authorizes the City of Hamilton to pass by-laws respecting highways over which it has jurisdiction;

AND WHEREAS subsection 11(1), paragraph 7 of the *Municipal Act, 2001*, S.O. 2001, c. 25, authorizes the City of Hamilton to pass by-laws respecting signs;

AND WHEREAS subsection 9(3) of the *Municipal Act, 2001*, S.O. 2001, c. 25, provides that a by-law under section 11 of that Act respecting a matter may regulate or prohibit and, as part of the power to regulate or prohibit may require a person to do things, provide for a system of licences permits, approvals or registrations and impose conditions as a requirement of obtaining, continuing to hold or renewing a licence, permit, approval or registration;

AND WHEREAS subsection 63(1) of the *Municipal Act, 2001*, S.O. 2001, c. 25, authorizes the City of Hamilton, if it passes a by-law for prohibiting or regulating the placing of an object on a highway, to provide for the removal of any object placed on a highway in contravention of that by-law;

AND WHEREAS subsection 99.3 of the *Municipal Act, 2001*, S.O. 2001, c. 25, authorizes the City of Hamilton to enter land and pull down or remove an advertising device, at the expense of the owner of the advertising device, if it is erected, located, or displayed in contravention of a by-law respecting advertising devices, including signs;

AND WHEREAS subsections 427(1) and 427(3) of *Municipal Act, 2001*, S.O. 2001, c. 25, authorize the City of Hamilton, if it has authority by by-law or otherwise, to direct or require that a matter or thing be done, to direct in the same by-law that, in default of it being done by the person directed or required to do it, such matter or thing be done at the person's expense and to recover that expense by action or by adding it to the tax roll and collecting it in the same manner as taxes;

AND WHEREAS section 425 of the *Municipal Act, 2001*, S.O. 2001, c. 25, establishes that any person who contravenes any by-law of the City of Hamilton is guilty of an offence;

AND WHEREAS public notice, including notice of a public participation meeting held by the Planning and Economic Development Committee on the 22nd day of June, 2006, of the intention to pass this By-law was given on the 2nd day of June, 2006 and the 9th day of June, 2006 pursuant to subsection 99.1 of the *Municipal Act, 2001*, S.O. 2001, c. 25, by publishing the public notice in local newspapers;

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

PART 1.0

TITLE, SCOPE AND INTENT OF SIGN BY-LAW

1.1 TITLE

This By-law shall be known and cited as the "Hamilton Sign By-law".

1.2 SCOPE

1.2.1 This By-law shall regulate the location, size, number, construction, alteration, repair and maintenance of all signs and advertising devices within the geographic boundaries of the City of Hamilton.

1.2.2 All schedules attached to this By-law form part of this By-law.

1.2.3 All signs and advertising devices located on public and private Property within the geographic boundaries of the City of Hamilton are subject to the provisions of this By-law.

- 1.2.4 This By-law does not apply to signs erected, located, or displayed, or caused to be erected, located, or displayed by federal, provincial or municipal governments, the Conservation Authorities or a local board as defined in the *Municipal Act, 2001*, including, but not limited to, signs designating a public library, a public community centre, a public arena, signs required by the City of Hamilton to inform the public of planning applications submitted under the *Planning Act* and TODs signs.
- 1.2.5 Notwithstanding subsection 1.2.4, the applicable regulations under this By-law for Ground Signs or Wall Signs shall apply to signs that function as Ground Signs or Wall Signs.

1.3 INTENT

The purpose of this By-law is to regulate signs in the City of Hamilton with the intent of authorizing signs that:

- (a) are appropriate in size, number, and location to the type of activity or use to which they pertain;
- (b) provide reasonable and appropriate means for the public to locate and identify facilities, businesses, and services without difficulty or confusion;
- (c) are compatible with their surroundings;
- (d) protect and enhance the aesthetic qualities and visual character of the City of Hamilton;
- (e) are consistent with the City of Hamilton's planning, urban design and heritage objectives;
- (f) do not create a distraction or safety hazard for pedestrians or motorists;
- (g) minimize adverse impacts on nearby public and private property;
- (h) regulate signs while impairing the public's right to expression as little as possible and in proportion to the purpose of the By-law.

PART 2.0 DEFINITIONS

In this By-law:

“Advertising Device” means any device or object erected, located, or displayed so as to attract public attention to any goods or services or facilities or events and includes flags, banners, pennants, and lights.

“Animated Sign” means a video screen or any flashing, kinetic, or illusionary motion of all or any part of a Sign and includes a rotating Sign but does not include an Electronic Message Display.

“Authorized Sign” means any Sign placed or erected on a highway under the authority of By-law 01-215, the City of Hamilton Traffic By-law, for the purpose of regulating, warning or guiding traffic.

“Awning Sign” means a retractable structure, covered with fabric or like material that is attached and projects from the exterior wall of a building over a window or door and provides shade or other protection from the elements and that is or functions as a Sign.

“Banner” means a Sign or an Advertising Device made from cloth, plastic or a similar lightweight non-rigid material.

“Bed and Breakfast Sign” means a Sign identifying a bed and breakfast establishment.

“Billboard” means an outdoor Sign erected, located or displayed by a Person engaged in the sale or rental of the space on the Sign, upon which space is displayed Copy that advertises goods, products, or services not sold or offered on the Property where the Sign is erected, located, or displayed, and the Sign is either single faced or double faced.

“Business Improvement Area” means an area designated by the City of Hamilton as an improvement area under the *Municipal Act, 2001*.

“Campaign Office” means the actual building or portion of a building in which a candidate maintains his office for the purpose of running an election campaign.

“Canopy Sign” means a non-retractable awning or roof-like structure that is not supported from the ground but instead is attached to and supported from the exterior wall of a building and that is or functions as a Sign.

“Charity” means a registered charity as defined in the *Income Tax Act* (Canada) or successor legislation, which has a registration number issued by the Canada Revenue Agency, or successor agency.

“Chief Building Official” means the person and/or his or her designate so appointed by Council pursuant to the *Building Code Act, 1992*.

“Community Organization” means a non-profit group of persons organized for the advancement of a civic, cultural or recreational nature.

“Construction Information Sign” means a Sign which identifies or provides information relating to or advertising the development or the construction of a

building on the Property on which the Sign is erected, located, or displayed but does not include a New Home Development Ground Sign.

“Copy” means the graphic content of a sign surface in either permanent or removable letter, pictorial, symbolic, or numeric form.

“Council” means the Council of the City of Hamilton.

“Designated Utility Pole” means a utility pole, including a light standard, designated by the City of Hamilton and fitted with a Poster Sleeve.

“Designated Official” means an employee of the City of Hamilton who has been assigned the responsibility of administering and enforcing this By-law, or his designate.

“Directional Sign” means any Sign on a Property which gives directions or instructions for the control of vehicular or pedestrian traffic and shall include an entry and exit Sign.

“Driveway Line” means the line forming a boundary between that portion of a Property not normally used by vehicular traffic and the lateral limit of a driveway.

“Election Sign” means a Sign advertising or promoting the election of a political party or a candidate for public office in a federal, provincial or municipal election.

“Electronic Message Display” means a permanent Sign which is electronically controlled and which displays information in a prearranged sequence, and on which the intensity of illumination is maintained at a constant level.

“Facade” means the entire building wall including a parapet.

“Frontage” means the length of the Property Line of any one Property parallel to and along each legally accessible Street.

“Grade” means the average surface elevation of the finished ground below a Sign or which is in contact with a Ground Sign.

“Ground Sign” means a Sign which is free standing and is supported by a structure secured to the ground and which is not supported by any building or other structure.

“Home Occupation Sign” means a Sign identifying a home occupation as defined in the zoning by-laws of the City of Hamilton.

“Height” means the vertical distance measured from the average elevation of the Grade immediately below a Sign to the highest point of the Sign and includes any support structure or ornamental feature.

“Incidental Sign” means a Sign containing information that has a purpose incidentally related to the use or occupancy of a Property and which Sign is intended to assist the public with the location of business facilities or provides courtesy or directional information but is not an advertisement.

“Inflatable Sign” means a Sign or an Advertising Device filled with air or gas and tethered to the ground, a vehicle or any structure and shall include balloons and any other inflatable Advertising Device.

“Information Sign” means a Sign for public safety or convenience regulating traffic, parking or other functional subdivision of the Property or a Sign denoting sections of a building and bearing no commercial advertising.

“Marquee Sign” means a permanent canopy or a roof-like structure, often bearing a signboard, projecting or extending from the façade, over an entrance and that is or functions as a Sign.

“Mobile Sign” means a Sign that is temporary, designed for the rearrangement of Copy on the sign face, is capable of being readily moved from one location to another, and may be part of or attached to a wheeled trailer or frame without wheels.

“Mural” means any type of display or artistic endeavour applied as paint, film or any other covering to any external wall or other integral part of a building or structure which does not include any words or advertisement or any other promotional message or content, including logos or trademarks.

“New Home Development Ground Sign” means a Sign that advertises the sale of Properties and homes of a subdivision but not the developer’s or landowner’s business in general.

“New Home Development Portable Sign” means a non-illuminated Sign which is not permanently installed or affixed to the ground and where the purpose of the Sign is to direct attention to the sale of new home developments.

“Official Sign” means any Sign required by a federal or provincial statute or regulation or by a municipal by-law and shall include a traffic sign, street name sign and a permanent sign erected, located, or displayed on a Street to inform the public of the location of Business Improvement Areas, public buildings, hospitals, public libraries, institutions, places of worship, parks, recreational or educational facilities.

“Open House Directional Sign” means a temporary portable sign intended to direct traffic to a residence for sale or lease, but does not include a New Home Development Portable Sign.

“Owner” means the registered owner of the Property, or the Person or the Person’s authorized agent in lawful control of a Property.

“Parapet Sign” means a Sign attached to the parapet of a building.

“Person” means any individual, association, proprietorship, partnership, syndicate, company, corporation, firm, business, authorized agent, trustee and the heirs, executors or other legal representatives, or any combination of the foregoing.

“Portable Sign” means a free standing moveable sign not fastened by any means to the ground or any structure.

“Poster” means a printed notice conveying information intended to be displayed for a temporary period of time and includes but is not limited to a bill, handbill, leaflet, notice or placard.

“Poster Sleeve” means a collar or other protective covering or identifier fitted by the City of Hamilton to a Designated Utility Pole.

“Projecting Sign” means a Sign attached to a building and projecting out horizontally from a building at a right angle to the building.

“Property” means a parcel of land which can be legally conveyed pursuant to the *Planning Act* and includes any buildings and structures thereon.

“Property Line” means the legal boundaries of a Property and includes a Street Line.

“Readograph” means that part of a permanent Sign composed of changeable letters intended to convey a temporary message and which is designed or constructed so that the message on the Sign may be easily changed and rearranged mechanically or as part of an Electronic Message Display.

“Real Estate Sign” means a temporary non-illuminated Sign displayed on Property and advertising the sale, rent, or lease of the Property.

“Roof Sign” means a Sign supported entirely or partly by the roof of a building or structure which projects above the roof and parapet or is erected, located or displayed on a sloped roof.

“Sidewalk Sign” means a freestanding Sign which is typically shaped like an “A” or a “T” and has one or two sign faces.

“Sign” means any surface, structure and other component parts, which are used or capable of being used as a visual medium or display to attract attention to a specific subject matter for identification, information or advertising purposes and includes an Advertising Device.

“Sign Area” means the entire area of the surface of a Sign including the border or frame, together with any material forming an integral part of the background of the display or used to differentiate the Sign from the backdrop or building against which it is erected, located, or displayed. Where there is no border or the Sign is composed of individually installed letters, numerals or shapes, the Sign Area shall include all of the area of the smallest polygon containing a maximum of eight right angle sides that enclose the surface of the Sign or the grouping of letters, numerals or shapes.

“Sign Owner” means any Person described on the Sign, or whose name and address or telephone number appears on the Sign, or who installed the Sign, or who is in lawful control of the Sign, or who benefits from the message on the Sign, and for the purposes of this definition, there may be more than one Sign Owner.

“Street” means any public highway but does not include a provincial highway.

“Street Furniture” means all Street related amenities and includes benches, kiosks, telephone booths, newspaper boxes, mail boxes, clocks, street lighting, transit shelters, litter containers, clothing recycling collection boxes, bicycle racks, tree guards, planters and other similar privately or publicly owned features.

“Street Line” means the dividing line between a Property and a Street.

“Temporary Personal Sign” means a non-illuminated Sign displaying a personal announcement or congratulatory message.

“Use” when used in conjunction with the words zone, residential, employment, industrial, commercial, institutional, agricultural, open space, or similar words, shall mean such uses as may be permitted under the zoning by-laws of the City of Hamilton.

“Vacant” means a Property separately assessed that does not have any building or any occupied building thereon.

“Validation Marker” means an attachment issued by the City of Hamilton signifying the issuance of a valid Sign permit.

“Visibility Triangle” means the triangular space formed within a Property by the intersection of the Street Line and a Driveway Line or the projections thereof and a straight line connecting them 6.0 metres from their point of intersection.

“Wall Sign” means a Sign erected, located, or displayed on or against a wall of a building, or supported by or through a wall of a building and having the sign face thereof on a plane approximately parallel to the plane of such wall.

“Width” means the measurement taken at right angles to the Height.

“Window Sign” means a Sign painted, etched, or attached to the interior or exterior surface of a window which is intended to be seen from off the Property.

“Zone” means any land use zone established in the zoning by-laws of the City of Hamilton and passed under the *Planning Act* or any predecessor or successor Act.

PART 3.0

INTERPRETATION AND ADMINISTRATION

3.1 Interpretation

- 3.1.1 Words importing the singular number or the masculine gender only include more Persons, parties or things of the same kind than one, and females as well as males and the converse.
- 3.1.2 A word interpreted in the singular number has a corresponding meaning when used in the plural.
- 3.1.3 The word “shall” is mandatory and the word “may” is permissive.

3.2 Administration

- 3.2.1 The Designated Official shall be responsible for the administration and enforcement of this By-law on all public and private Property within the geographic boundaries of the City of Hamilton.
- 3.2.2 The Designated Official may enter upon any Property at any reasonable time to inspect a Sign for the purpose of determining or affecting its compliance with this By-law.

3.3 Permits

- 3.3.1 Every Person erecting, locating or displaying a Sign within the City of Hamilton, with the exception of a Sign listed in Schedule “B”, shall apply for and obtain a permit.
- 3.3.2 Every Person applying for a Sign permit shall provide to the Designated Official:
- (a) a completed application form as prescribed by the City of Hamilton;
 - (b) all plans, drawings and other materials as required by the City of Hamilton;
 - (c) all applicable permit fees as set out in Schedule “A”;
 - (d) the written authorisation of the Owner where the Person applying for the Sign permit is not also the Owner of the Property where the Sign will be erected, located, or displayed; and,
 - (e) where applicable, proof of approval for the proposed Sign from all governmental authorities having jurisdiction.
- 3.3.3 An application for a Sign permit shall be accompanied by plans and drawings that contain the following information:
- (a) a key map showing the location of the Property on which the proposed Sign is to be located and the nearest major Street intersection;
 - (b) a site plan showing the Property where the Sign is to be erected, located, or displayed, drawn to scale showing the dimensions of all Property Lines, existing or proposed buildings, location of proposed Signs, and location of all existing Signs on the same Property;
 - (c) drawings and specifications of the Sign drawn to scale and showing sections and elevations of the Sign to be erected, located, or displayed, construction details, supporting framework, foundations, materials, illumination details, Height of Sign, Sign Area, length and Width of Sign; and,
 - (d) sufficient information for the Chief Building Official to determine that the Sign has been designed and will be constructed in compliance with the applicable structural and fire prevention provisions of the Ontario Building Code.
- 3.3.4 The Chief Building Official may require the certification by a Registered Professional Engineer of all plans and specifications covering the erection of the Sign and supporting framework with respect to the structural adequacy of the Sign.
- 3.3.5 The application of the Ontario Building Code to any sign permit application will be considered by the City and where the City determines that the Ontario Building Code applies to a Sign, any sign permit issued pursuant to this By-law will be deemed to satisfy the requirements for a building permit under the Ontario Building Code Act.
- 3.3.8 If required, a Person shall obtain approval for the proposed Sign from other governmental authorities having jurisdiction.

3.4 Sign Permit Refusal, Expiry, or Renewal

- 3.4.1 A permit may be refused if the proposed Sign does not comply with this By-law, any other By-law or federal or provincial statute or regulation.
- 3.4.2 A Billboard, Awning Sign, Canopy Sign, Ground Sign, Marquee Sign, New Home Development Ground Sign, Parapet Sign, Projecting Sign, or Wall Sign permit issued by the City of Hamilton shall expire six months from the date of issuance unless the Sign is erected, located, or displayed for its intended purpose and a permit shall expire upon the removal of the Sign.
- 3.4.3 Where a Billboard, Awning Sign, Canopy Sign, Ground Sign, Marquee Sign, New Home Development Ground Sign, Parapet Sign, Projecting Sign or Wall Sign permit has been issued and before it has expired, an application may be made to extend the permit for a further six months, provided the Sign continues to conform to all By-law requirements and federal or provincial statutory or regulatory requirements existing at the time of renewal.
- 3.4.4 The City of Hamilton may revoke a permit under the following circumstances:
- (a) the City of Hamilton issued the permit in error;
 - (b) the Sign does not comply with this By-law or any other by-law, the Ontario Building Code, or any federal or provincial statute or regulation;
 - (c) the City of Hamilton issued the permit as the result of false, mistaken, incorrect, or misleading statements, information, or undertakings on the application;
 - (d) the erection, location, or display of the Sign has not commenced within six months after the issuance of the permit;
 - (e) the erection, location or display of the Sign, in the opinion of the Designated Official, has been substantially suspended or discontinued for a period of more than one calendar year;
 - (f) the permit holder requests in writing that the permit be revoked; or
 - (g) the business, product, activity or service to which the Sign relates ceases to operate or is no longer available.

3.5 Existing Signs

- 3.5.1 Any Sign that is lawfully erected, located, or displayed on the day this By-law comes into force may continue to be erected, located, or displayed provided it is not substantially altered in a manner that would bring it into non-compliance or increase its non-compliance with this By-law. Anything done to preserve the condition of a

Sign or to prevent the deterioration of a Sign, including the restoration of a Sign by removing or replacing worn out, missing, damaged or broken parts, or a change in the message or Copy displayed by the Sign does not in itself constitute a substantial alteration.

3.6 Refunds

3.6.1 Subject to subsections 3.6.2 and 3.6.3, the Designated Official shall determine the amount of the fees, if any, that may be refunded in accordance with Schedule "A" where:

- (a) the Sign permit applicant requests in writing that the Sign Permit application be cancelled;
- (b) the Designated Official refuses to issue the Sign permit because the Sign does not comply with this By-law or any other by-law, the Ontario Building Code, or any federal or provincial statute or regulation; or
- (c) the City of Hamilton issued the permit in error.

3.6.2 There shall be no refund where:

- (a) the City of Hamilton issued the permit as the result of false, mistaken, incorrect, or misleading statements, information, or undertakings on the application; or
- (b) the Sign, for which the permit application is made, has been erected, located or displayed prior to the issuance of a permit.

3.6.3 Refunds shall only be provided for Ground Sign, New Home Development Ground Sign, Awning Sign, Canopy Sign, Marquee Sign, Parapet Sign, Projecting Sign and Wall Sign permit applications.

PART 4.0 GENERAL PROHIBITIONS AND REGULATIONS

4.1 No Person shall erect, locate, or display or cause to be erected, located, or display a Sign:

- (a) for which a permit has not been obtained, if a permit is required under this By-law;
- (b) which is not in compliance with this By-law or the conditions of any variance granted under this By-law;
- (c) listed in Schedule "B" which is not in compliance with any regulation listed in the Schedule for that sign type;

- (d) listed in Schedule "C" which is not in compliance with any regulation listed in the Schedule for that sign type;
- (e) which is not specifically permitted under this By-law;
- (f) which is on City of Hamilton Property except as permitted by this By-law;
- (g) which obstructs the view of any pedestrian or driver of a motor vehicle, obstructs the visibility of any traffic sign or device, or interferes with vehicular traffic in a manner that could endanger any person;
- (h) which illuminates any adjacent Property or the path of vehicular traffic;
- (i) which is not maintained in a proper state of repair, becomes unsightly, becomes structurally inadequate or faulty, or could be hazardous to a pedestrian or motorist;
- (j) which the Designated Official has directed be removed; or,
- (k) which bears or displays the City of Hamilton logo, crest or seal in whole or in part, without the express written permission of the City of Hamilton.

- 4.2 A Person shall be deemed to be erecting, locating, or displaying a Sign if that Person is the Sign Owner and directs, permits or fails to stop the erection, location, or display of the Sign.

PART 5.0

REGULATIONS FOR PARTICULAR TYPES OF SIGNS

5.1 Prohibited Signs

- 5.1.1 The following Signs are prohibited under this By-law:

- (a) any flashing or Animated Sign, with the exception of an Electronic Message Display as permitted under this By-law;
- (b) any Projecting Sign except as permitted under this By-law;
- (c) any Roof Sign;
- (d) any Sign erected, located, or displayed within a Visibility Triangle;
- (e) any Sign displayed on a vehicle, trailer or truck which is parked or located on Property in a manner that is unrelated to its normal use as a vehicle and is more consistent with the use of the vehicle as a Sign; or,
- (f) any Sign which obstructs or is erected, located, or displayed in a parking space required by the zoning by-laws of the City of Hamilton.

- 5.1.2 Where a Sign is not expressly permitted by this By-law, it shall be deemed to be prohibited.

- 5.1.3 Where a type of Sign is not specifically permitted within a particular Zone or on a Property with a particular zoned use under Schedule "C", it shall be deemed to be prohibited within that Zone or on that Property.
- 5.1.4 Notwithstanding subsections 5.1.2 and 5.1.3 and subject to the approval of Council, Signs on Street Furniture erected, located or displayed pursuant to an agreement with the City of Hamilton are permitted.

5.2 Ground Signs

- 5.2.1 No Person shall erect, locate, or display a Ground Sign except in accordance with the applicable regulations under Schedule "C", the applicable general regulations under this By-law, and the specific regulations under this section of the By-law.
- 5.2.2 No Ground Sign shall be erected, located or displayed except a Ground Sign embedded in a foundation in the ground to a depth of at least 1.2 metres.
- 5.2.3 No Ground Sign shall be erected, located or displayed in a commercial or industrial Zone without displaying on the top or bottom the municipal address number of the Property on which the Ground Sign is erected, located, or displayed in numerals that are a minimum height of 15.0 centimetres.
- 5.2.4 No Ground Sign shall be erected, located, or displayed within 15.0 metres of a traffic signal or traffic control device.
- 5.2.5 No Ground Sign shall be erected, located, or displayed within 1.5 metres or a distance equal to 75% of the Height of the Ground Sign, whichever is greater, from any Property Line.
- 5.2.6 The maximum total Sign Area for a Ground Sign that is double faced or multi-faced Sign shall be double the maximum Sign Area permitted for one sign face.
- 5.2.7 The sign face of a Ground Sign may allocate a maximum 50% of the sign face to a Readograph or Electronic Message Display.
- 5.2.8 No message displayed on an Electronic Message Display on a Ground Sign shall be displayed for less than three (3) seconds, during which there shall be no movement or change in colour or intensity of illumination.
- 5.2.9 A Ground Sign shall be erected, located, or displayed along the same Street Frontage used to calculate the maximum Sign Area of the Ground Sign.

- 5.2.10 Where more than one Ground Sign is erected, located, or displayed parallel to a Street Frontage, no Ground Sign shall be erected, located, or displayed within 200.0 metres of another Ground Sign on the same Property.
- 5.2.11 A Ground Sign shall be permitted in all zones except where the use of the property is for one or more of the following uses:
- (a) A Single Detached Dwelling;
 - (b) A Semi Detached Dwelling;
 - (c) A Duplex;
 - (d) A Triplex;
 - (e) A Fourplex or Quadruplex;
 - (f) A Street townhouse;
 - (g) A Mobile Home;
 - (h) A Residential Care Facility for 6 or less residents;
 - (i) A Lodging House for 6 or less lodgers;
 - (j) A Retirement Home for 6 or less residents; or
 - (k) An Emergency Shelter for 6 or less residents.
- 5.2.12 Where a Property on which a Billboard is erected, located, or displayed ceases to be Vacant or undeveloped and the Billboard has not been removed, no Ground Sign shall be erected, located, or displayed on the Property.

5.3 Wall Signs and Parapet Signs

- 5.3.1 No Person shall erect, locate, or display a Wall Sign or a Parapet Sign except in accordance the applicable regulations under Schedule "C", the applicable general regulations under this By-law, and the specific regulations under this section of the By-law.
- 5.3.2 No Wall Sign or Parapet Sign shall extend beyond the extremity of the wall Facade on which it is erected, located, or displayed.
- 5.3.3 No Wall Sign or Parapet Sign shall project more than 60 centimetres from the wall to which it is attached.
- 5.3.4 No Wall Sign or Parapet Sign erected, located, or displayed on a building above a location where the public passes shall be erected, located, or displayed less than 2.5 metres above the Grade below the Wall Sign or Parapet Sign.
- 5.3.5 No Wall Sign or Parapet Sign shall be erected, located, or displayed unless it is parallel to the wall to which it is attached.

- 5.3.6 No Wall Sign shall be erected, located or displayed unless it is on the same building Facade used to calculate the maximum Sign Area of the Wall Sign.
- 5.3.7 The sign face of a Wall Sign may be a Read-o-graph or Electronic Message Display.
- 5.3.8 No message displayed on an Electronic Message Display on a Wall Sign shall be displayed for less than three (3) seconds, during which there shall be no movement or change in colour or intensity of illumination.
- 5.3.9 No Parapet Sign shall be erected, located or displayed unless it is on the same building Façade used to calculate the maximum Sign Area of the Parapet Sign.
- 5.3.10 In a multi-occupant building the area of a Wall Sign for tenants shall be in direct proportion to the linear distance each occupant controls on the applicable Facade.
- 5.3.11 A Parapet Sign shall consist only of a business's logo or name.
- 5.3.12 A Wall Sign or a Parapet Sign shall be permitted in all zones except where the use of the property is for one or more of the following uses:
- (a) A Single Detached Dwelling;
 - (b) A Semi Detached Dwelling;
 - (c) A Duplex;
 - (d) A Triplex;
 - (e) A Fourplex or Quadruplex;
 - (f) A Street townhouse;
 - (g) A Mobile Home
 - (h) A Residential Care Facility for 6 or less residents;
 - (i) A Lodging House for 6 or less lodgers;
 - (j) A Retirement Home for 6 or less residents; or
 - (k) An Emergency Shelter for 6 or less residents.

5.4 Projecting Signs

- 5.4.1 No Person shall erect, locate, or display a Projecting Sign except in accordance with the applicable regulations under Schedule "C", the applicable general regulations under this By-law, and the specific regulations under this section of the By-law.
- 5.4.2 The Owner of Property where a Projecting Sign is erected, located, or displayed that overhangs a public right of way under the jurisdiction of the City of Hamilton shall enter into an encroachment agreement with the City of Hamilton and shall satisfy the City of Hamilton's requirements for liability insurance.

- 5.4.3 No portion of a Projecting Sign shall be less than 2.5 metres above the Grade below the Projecting Sign.
- 5.4.4 The sign face of a Projecting Sign may be a Read-o-graph or Electronic Message Display.
- 5.4.5 No message displayed on an Electronic Message Display on a Projecting Sign shall be displayed for less than three (3) seconds, during which there shall be no movement or change in colour or intensity of illumination.

5.5 Awning Signs, Canopy Signs and Marquee Signs

- 5.5.1 No Person shall erect, locate, or display an Awning Sign, Canopy Sign or Marquee Sign except in accordance the applicable regulations under Schedule "C", the applicable general regulations under this By-law, and the specific regulations under this section of the By-law.
- 5.5.2 No Awning Sign, Canopy Sign or Marquee Sign erected, located, or displayed on a building above a location where the public passes shall be erected, located, or displayed less than 2.5 metres above the Grade below the Awning Sign, Canopy Sign or Marquee Sign.
- 5.5.3 An Awning Sign, Canopy Sign or Marquee Sign shall be permitted in all zones except where the use of the property is for one or more of the following uses:
- (a) A Single Detached Dwelling;
 - (b) A Semi Detached Dwelling;
 - (c) A Duplex;
 - (d) A Triplex;
 - (e) A Fourplex or Quadruplex;
 - (f) A Street townhouse;
 - (g) A Mobile Home
 - (h) A Residential Care Facility for 6 or less residents;
 - (i) A Lodging House for 6 or less lodgers;
 - (j) A Retirement Home for 6 or less residents; or
 - (k) An Emergency Shelter for 6 or less residents.

5.6 Mobile Signs

- 5.6.1 No Person shall erect, locate, or display a Mobile Sign except in accordance with the applicable regulations under Schedule "C", the applicable general regulations under this By-law, and the specific regulations under this section of the By-law.

- 5.6.2 A permit for a Mobile Sign shall be valid for a period of fourteen (14) consecutive days.
- 5.6.3 No more than six (6) Mobile Sign permits shall be issued for a single business at a single Property in a calendar year for a total calendar year allotment of twelve (12) weeks.
- 5.6.4 The maximum display period for a Mobile Sign shall be twenty-eight (28) consecutive days, being two (2) permit periods.
- 5.6.5 Where one (1) permit for a Mobile Sign has been issued for a Property for a display period of fourteen (14) consecutive days, being one (1) permit period, no subsequent permit for the Property shall be issued until at least fourteen (14) days have elapsed from the date of expiry of the previous permit.
- 5.6.6 Where two (2) permits for a Mobile Sign has been issued for a Property for a display period of twenty-eight (28) consecutive days, being two (2) permit periods, no subsequent permit for the Property shall be issued until at least fourteen (14) days have elapsed from the date of expiry of the previous permit.
- 5.6.7 Where there are two (2) Mobile Signs on a Property, each shall comply with subsection 5.6.5 or 5.6.6.
- 5.6.8 A Mobile Sign shall have a maximum of two sign faces and a separate permit shall be required for each sign face if they relate to different businesses. The applicable permit fee under Schedule "A" shall be paid for each permit.
- 5.6.9 An application for a Mobile Sign permit shall be submitted no earlier than twenty-eight (28) days prior to the intended date the permit comes into effect.
- 5.6.10 Applications for Mobile Sign permits on a Property shall be processed by the City of Hamilton in the order of receipt, and in the event that applications are submitted simultaneously and insufficient opportunities exist for the display of a Mobile Sign, priority for a permit shall be established by means of a draw conducted by the Designated Official.
- 5.6.11 A Mobile Sign shall be erected, located, or displayed entirely on private Property and only in the front or exterior side yard of a Property.
- 5.6.12 No Mobile Sign shall be erected, located, or displayed on a Vacant Property.
- 5.6.13 No Mobile Sign shall be erected, located, or displayed except on the Property where the business or activity being advertised on the Mobile Sign is located.

- 5.6.14 No Mobile Sign shall exceed a maximum area of 4.5 m² per sign face for a commercial or industrial use and 1.8 m² for an institutional use.
- 5.6.15 No Mobile Sign shall exceed 2.7 metres in Height.
- 5.6.16 No Mobile Sign shall be greater than 2.5 metres in any linear dimension.
- 5.6.17 No more than two (2) Mobile Signs shall be erected, located, or displayed on a Property at any one time.
- 5.6.18 Where more than one (1) Mobile Sign is erected, located or displayed on the same Property, they shall be separated by a distance of at least 50.0 metres.
- 5.6.19 No Mobile Sign shall be erected, located, or displayed within:
- (a) 10.0 metres of a Ground Sign on the same Property;
 - (b) 15.0 metres of an intersection or traffic signal or traffic control device;
 - (c) 3.0 metres of a Driveway Line;
 - (d) 3.0 metres of side Property Line;
 - (e) 1.5 metres of a Street Line;
 - (f) any parking space required under the zoning by-laws of the City of Hamilton; or,
 - (g) 15.0 metres of a property used solely for residential purposes.
- 5.6.20 A Mobile Sign shall display the name and telephone number of the Sign Owner in a clearly visible location.
- 5.6.21 A Mobile Sign shall display a Validation Marker in a clearly visible location.
- 5.6.22 No Mobile Sign shall be illuminated or animated, nor shall any Mobile Sign create noise or motion.
- 5.6.23 The Copy and message board of the Mobile Sign shall be only black on white or white on black, provided that:
- (a) one line of letters or numbers no more than 30 centimetres in height may be a single colour other than black or white; and,
 - (b) graphics or business logos totalling a maximum of 10% of the Sign Area may be any colour or combination of colours.
- 5.6.24 Subsection 5.6.23 shall not come into effect until one year after the passage and enactment of this By-law.
- 5.6.25 A Mobile Sign shall be permitted in all zones except where the use of the property is for one or more of the following uses:
- (a) A Single Detached Dwelling;

- (b) A Semi Detached Dwelling;
- (c) A Duplex;
- (d) A Triplex;
- (e) A Fourplex or Quadruplex;
- (f) A Street townhouse;
- (g) A Mobile Home
- (h) A Residential Care Facility for 6 or less residents;
- (i) A Lodging House for 6 or less lodgers;
- (j) A Retirement Home for 6 or less residents; or
- (k) An Emergency Shelter for 6 or less residents.

5.6.26 Notwithstanding subsection 5.6.25, no Mobile Sign shall be erected, located, or displayed on a Property within the Downtown Community Improvement Project Area, a Business Improvement Area, or within the Ancaster Village Core Area.

5.6.27 Notwithstanding subsections 5.6.17 and 5.6.18, and subject to the other requirements for Mobile Signs in this By-law, one Mobile Sign, advertising a grand opening or closing promotional event, may be erected, located or displayed on a Property for seven (7) consecutive days, provided that:

- (a) the Mobile Sign shall advertise a grand opening or closing promotional event for any business only once;
- (b) where the Mobile Sign advertises a grand opening or closing promotional event for a business, a Banner shall not also advertise that grand opening or closing promotional event; and,
- (c) there is no Mobile Sign permit otherwise available under this section for the Property.

5.7 Banners

5.7.1 No Person shall erect, locate, or display a Banner except in accordance with the applicable regulations under Schedule "B" or Schedule "C", the applicable general regulations under this By-law, and the specific regulations under this section of the By-law.

5.7.2 No Banner shall exceed 6.0 m² in Sign Area or 1.0 metre in Height.

5.7.3 No Banner shall be erected, located, or displayed on a Property for more than twenty-eight (28) days in one calendar year.

5.7.4 No Banner advertising a special event shall be erected, located, or displayed on fencing adjacent to a Street unless the special event is organized by a Charity or Community Organization and the Charity or Community Organization has obtained the permission of the Owner of the Property on which the fence is located.

- 5.7.5 Notwithstanding subsection 5.7.3, and subject to the other requirements for Banners in this By-law, one Banner, advertising a grand opening or closing promotional event, may be erected, located or displayed on a Property for seven (7) consecutive days, provided that:
- (a) the Banner shall advertise a grand opening or closing promotional event for a business only once;
 - (b) where the Banner advertises a grand opening or closing promotional event for a business, a Mobile Sign shall not also advertise that grand opening or closing promotional event; and
 - (c) the Banner is attached only to a wall of the building containing the business or only to a Ground Sign.

5.8 Sidewalk Signs

- 5.8.1 No Person shall erect, locate, or display a Sidewalk Sign except in accordance with the applicable regulations under Schedule "B" or Schedule "C", the applicable general regulations under this By-law, and the specific regulations under this section of the By-law.
- 5.8.2 No Sidewalk Sign shall be more than 0.6 metres in Width or 0.8 metres in Height.
- 5.8.3 No Sidewalk Sign shall be permanently secured to the ground, any structure or tree.
- 5.8.4 Where a Sidewalk Sign is erected, located, or displayed on private Property, it shall be erected, located, or displayed against the front wall of the business it is advertising.
- 5.8.5 No Sidewalk Sign shall be erected located, located or displayed on public Property except on a public sidewalk.
- 5.8.6 Where a Sidewalk Sign is erected, located, or displayed on a public sidewalk, it shall be erected, located, or displayed adjacent to the curb opposite or against the front wall of the business it is advertising provided there is a minimum 1.5 metres of unobstructed sidewalk and the Sidewalk Sign does not encroach on any Urban Braille System.
- 5.8.7 No Person shall erect, display or locate a Sidewalk Sign on a public sidewalk except during the hours of operation of the business the Sidewalk Sign is advertising.

5.8.8 No Sidewalk Sign shall be erected, located, or displayed on a public sidewalk without a permit issued by the City of Hamilton and the permit shall be valid for one (1) calendar year.

5.8.9 No Sidewalk Sign shall be erected, located, or displayed on a public sidewalk without displaying a Validation Marker and the Sign Owner shall satisfy the City of Hamilton's requirements for liability insurance.

5.9 Inflatable Signs

5.9.1 No Person shall erect, locate, or display an Inflatable Sign except in accordance with the applicable regulations under Schedule "B" or Schedule "C", the applicable general regulations under this By-law, and the specific regulations under this section of the By-law.

5.9.2 A permit for an Inflatable Sign shall be valid for seven (7) consecutive days.

5.9.3 No Person or his agent shall apply for or receive permits for an Inflatable Sign which total more than fourteen (14) days for any Property within one (1) calendar year.

5.9.4 No Inflatable Sign shall be more than 7.0 metres in Height or 6.0 metres in Width.

5.9.5 No Inflatable Sign shall be erected, located, or displayed less than 50.0 metres from a Mobile Sign.

5.9.6 An application for a permit for an Inflatable Sign shall provide information satisfactory to the Designated Official on how the Inflatable Sign is to be secured to a fixed base and shall satisfy the City of Hamilton's requirements for liability insurance.

5.9.7 Notwithstanding subsections 5.9.4 and 5.9.5, an Inflatable Sign advertising a holiday or festival may be erected, located or displayed, provided that the Inflatable Sign:

- (a) is no more than 2.7 metres in Height;
- (b) is no more than 2.5 metres in Width;
- (b) is not located within 3.0 metres of any Property Line; and,
- (c) is secured to a fixed base.

5.10 New Home Development Ground Signs

5.10.1 No Person shall erect, locate, or display a New Home Development Ground Sign except in accordance with the applicable regulations under Schedule "C", the

applicable general regulations under this By-law, and the specific regulations under this section of the By-law.

- 5.10.2 No New Home Development Ground Sign shall be permitted to be erected, located, or displayed unless draft plan approval has been granted to the plan of subdivision it advertises.
- 5.10.3 No New Home Development Ground Sign shall be erected, located, or displayed within 5.0 metres of any Property Line.
- 5.10.4 No New Home Development Ground Sign shall erected, located or displayed except on Vacant Property.
- 5.10.5 No more than two (2) New Home Development Ground Signs may be erected, located, or displayed in a subdivision and no more than two (2) New Home Development Ground Signs may be erected, located, or displayed outside the subdivision on private Property with the approval of the Owner of the Property.
- 5.10.6 No New Home Development Ground Sign shall exceed a maximum Sign Area of 18.0 m².
- 5.10.7 In addition to a New Home Development Ground Sign, a maximum of one (1) model home Sign for each model home may be erected, located, or displayed within a subdivision provided the model home Sign does not exceed a maximum Sign Area of 3.0 m².
- 5.10.8 A New Home Development Ground Sign shall be removed twenty-eight (28) days after the date that the sale of homes in the subdivision has ended.

5.11 New Home Development Portable Signs

- 5.11.1 No Person shall erect, locate, or display a New Home Development Portable Sign except in accordance with the applicable regulations under Schedule "C", the applicable general regulations under this By-law, and the specific regulations under this section of the By-law.
- 5.11.2 No New Home Development Portable Sign shall be erected, located, or displayed on the untravelled portion of a Street except in accordance with the following regulations:
 - (a) the Sign Area of the New Home Development Portable Sign shall not exceed 1.2 m²;

- (b) the Height of the New Home Development Portable Sign shall not exceed 1.2 m;
- (c) the New Home Development Portable Sign shall not be illuminated or animated, nor shall it and contain any device that creates noise or motion;
- (d) the New Home Development Portable Sign shall be displayed no earlier than noon on any Friday and removed by no later than noon of the following Monday, provided that where a statutory holiday falls on a Friday, the New Home Development Portable Sign shall be displayed no earlier than noon on the preceding Thursday, and where a statutory holiday falls on a Monday, the New Home Development Portable Sign shall be removed by no later than noon on the following Tuesday;
- (e) the New Home Development Portable Sign shall not be erected, located or displayed where it impairs or obstructs the visibility or movement of vehicular or pedestrian traffic, or where it impairs or obstructs the visibility of warning devices for railways, traffic signals, traffic control devices or Official Signs or Authorized Signs;
- (f) the New Home Development Portable Sign shall not be erected, located, or displayed on a traffic island or median or attached to a light standard or utility pole;
- (g) the New Home Development Portable Sign shall display a Validation Marker;
- (h) the Sign Owner shall satisfy the liability insurance requirements of the City of Hamilton;
- (i) no more than ten (10) permits shall be issued for New Home Development Portable Signs advertising the sale of homes in the subdivision;
- (j) the maximum number of New Home Development Portable Signs permitted at each intersection shall be three (3) Signs on any one corner of an intersection and each builder shall use no more than one (1) Sign on each intersection;
- (k) no New Home Development Portable Sign shall be erected, located, or displayed less than 1.5 metres from the curb or edge of the travelled portion of the roadway where there is no curb;
- (l) no New Home Development Portable Sign shall be erected, located, or displayed on a public sidewalk; and,
- (m) no New Home Development Portable Sign shall be erected, located, or displayed less than 3.0 metres from a Driveway Line.

5.12 Poster

- 5.12.1 No Person shall erect, locate, or display a Poster except in accordance with Schedule "B" and the general regulations applicable under this By-law.

- 5.12.2 Notwithstanding Schedule “B” and any general regulations applicable under this By-law, the City of Hamilton may remove and dispose of Posters without notice or compensation to any person.

5.13 Election Signs

- 5.13.1 No Person shall erect, locate, or display an Election Sign except in accordance with the applicable regulations under Schedule “B”, the applicable general regulations under this By-law, and the specific regulations under this section of the By-law.
- 5.13.2 The maximum size of an Election Sign is 1.5 m² for each sign face.
- 5.13.3 No Person or his agent shall erect, locate, or display an Election Sign unless it is erected, located, or displayed on private Property, except as a Poster subject to all of the regulations regarding Posters in this By-law and to subsections 5.13.4, 5.13.5, and 5.13.7.
- 5.13.4 No Election Sign associated with a federal or provincial election shall be erected, located, or displayed earlier than the date the writ of election is issued, with the exception of signage at a Campaign Office.
- 5.13.5 No Election Sign associated with a municipal election shall be erected, located, or displayed earlier than twenty-eight (28) days prior to voting day, with the exception of signage at a Campaign Office.
- 5.13.6 Any Sign used by a candidate during an election that is larger than an Election Sign shall comply with the regulations of this By-law with respect to permits, structure, location, dimensions, and characteristics.
- 5.13.7 All Election Signs shall be removed no later than three (3) days after the voting day of the election for which the Sign was erected, located, or displayed. For the purpose of this subsection, the candidate shall be responsible for the removal of the Election Signs.

5.14 Billboards

- 5.14.1 No Person shall erect, locate, or display a Billboard except in accordance with the applicable regulations under Schedule “C”, the applicable general regulations under this By-law, and the specific regulations under this section of the By-law.

- 5.14.2 No Billboard shall be erected, located, or displayed except in accordance with the following regulations:
- (a) the Billboard shall not be erected, located, or displayed within 400.0 metres of the right of way of Highway 403, the Queen Elizabeth Way, the Lincoln M. Alexander Parkway, or the Red Hill Creek Expressway;
 - (b) the Billboard shall not be erected, located, or displayed on a Property within the Downtown Community Improvement Project Area;
 - (c) the Billboard shall not be erected, located, or displayed less than 300.0 metres from another Billboard;
 - (d) the Billboard shall not be erected, located, or displayed less than 300.0 metres from any residentially Zoned Property;
 - (e) the Billboard shall not be animated;
 - (f) the Sign Area of a Billboard shall not exceed 18.0 m²;
 - (g) the Height of a Billboard shall not exceed 12.0 metres;
 - (h) the Width of a Billboard shall not exceed 4.0 metres: and,
 - (i) the Billboard shall be erected, located, or displayed on Vacant, undeveloped Property Zoned commercial or industrial.
- 5.14.3 Where a Property on which a Billboard is erected, located, or displayed ceases to be Vacant or undeveloped, the Sign Owner shall remove the Billboard from the Property.

PART 6.0 VARIANCES

- 6.1 Any Person may apply for a variance from this By-law or any provision thereof.
- 6.2 An application for variance shall be made on the form prescribed by the City of Hamilton and shall be accompanied by the applicable fee, as set out in Schedule "A".
- 6.3 Variances may be authorized by the Director of Development and Real Estate or his designate.
- 6.4 The City of Hamilton may authorize a variance if in its opinion the general intent and purpose of the By-law are maintained.
- 6.5 In considering an application for a variance, the City of Hamilton shall have regard for:
- (a) special circumstances or conditions applying to the land, building or use referred to in the application;

- (b) whether strict application of the provisions of this By-law in the context of the special circumstances applying to the land, building or use, would result in practical difficulties or unnecessary and unusual hardship for the applicant, inconsistent with the general intent and purpose of this By-law;
- (c) whether such special circumstances or conditions are pre-existing and not created by the Sign Owner or applicant; and
- (d) whether the Sign that is the subject of the variance will alter the essential character of the area in which the Sign will be located.

- 6.6 An applicant may appeal the variance application decision of the Director of Development and Real Estate to the Planning and Economic Development Committee.
- 6.7 The City Clerk shall notify the applicant once a hearing date before the Planning and Economic Development Committee has been fixed and if the applicant does not attend at the appointed time and place, the Committee may proceed in the absence of the applicant and the applicant shall not be entitled to further notice in the proceeding.
- 6.8 Council may uphold or vary the recommendations of the Planning and Economic Development Committee or do any act or make any decision that it might have done had it conducted the hearing itself and the applicant shall not be entitled to a further hearing on the matter before Council and the decision of Council shall be final.

PART 7.0

PENALTIES AND ENFORCEMENT

- 7.1 Every Person who contravenes any provision of this By-law is guilty of an offence. Pursuant to the provisions of the *Provincial Offences Act*, upon conviction a Person is liable to a fine of not more than \$5,000.00 exclusive of costs.
- 7.2 Where a Person has been convicted of an offence, the court in which the conviction has been entered and any court of competent jurisdiction thereafter may, in addition to any other remedy or penalty provided for by law, make an order prohibiting the continuation or repetition of the offence by the Person convicted.
- 7.3 Where a Sign is erected, located, or displayed on, over, partly on, or partly over, Property owned by or under the jurisdiction of the City of Hamilton and not in accordance with the regulations of this By-law, the Sign may be removed immediately by the City of Hamilton without notice or compensation.
- 7.4 Where a Sign is erected, located, or displayed in contravention of this By-law, the Designated Official may immediately pull down or remove any Sign that he

determines constitutes a safety hazard or a concern without notice or compensation.

- 7.5 Where a Sign does not comply with this By-law or a permit issued under this By-law, the Designated Official may order the Sign Owner to remove or bring the Sign into compliance in the manner and within the time specified in the order.
- 7.6 The order mentioned in section 7.5 may be served:
- (a) by personal service upon the Sign Owner;
 - (b) by prepaid registered mail sent to the last address of the Sign Owner, shown on the records of the City of Hamilton; or,
 - (c) by prominently posting a copy of the order either on the Sign in respect of which the order is made, or on the Property upon which the Sign is erected, located, or displayed.
- 7.7 Where the order is served in accordance with section 7.6 it is deemed to have been received by the party being served upon the mailing or posting of the order.
- 7.8 Where a Sign is not removed or is not brought into conformity as required by an order under section 7.5, the Designated Official may have the Sign removed without notice or compensation. For this purpose, the Designated Official, an inspector and their contractor or other agent may enter upon the Property at any reasonable time.
- 7.9 The cost incurred by the City of Hamilton in removing a Sign under this part of the By-law is deemed to be municipal taxes and may be added to the collector's roll and collected in the same manner as municipal taxes. Despite the foregoing, the cost incurred by the City of Hamilton in removing a Sign under this part of the By-law is a debt payable to the City of Hamilton and may be recovered in any court of competent jurisdiction.
- 7.10 Any Sign removed by the City of Hamilton shall be stored by the City of Hamilton for twenty-eight (28) days, during which time the Sign Owner may redeem such Sign upon payment of the applicable fee prescribed on Schedule "A."
- 7.11 Where a Sign has been removed by the City of Hamilton and has been stored for a period of twenty-eight (28) days and has not been redeemed by the Sign Owner, such Sign may be destroyed or otherwise disposed of by the City of Hamilton without notice or compensation.

**PART 8.0
CONFLICT**

- 8.1 Where a provision of this By-law conflicts with a provision of any other by-law or any federal or provincial statute or regulation, the provision that establishes the higher standard to protect the health, safety and welfare of the general public shall prevail.

**PART 9.0
VALIDITY**

- 9.1 If a court of competent jurisdiction declares any subsection, section or part of this By-law invalid, it is the intention of Council that the remainder of the By-law shall continue to be in force.

**PART 10.0
REPEAL**

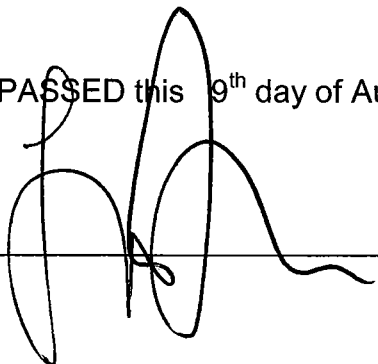
- 10.1 The By-laws listed on Schedule "D" are hereby repealed as of the day on which this By-law comes into force and effect.

**PART 11.0
EFFECTIVE DATE**

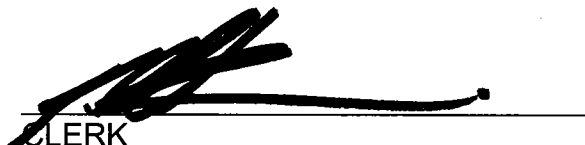
- 11.1 This By-law comes into force and effect on February 1, 2007.

ENACTED AND PASSED this 9th day of August, 2006.

MAYOR



CLERK



SCHEDULE "A" TO BY-LAW NO. 06-243**Fees****1. PERMITS FOR SIGNS**

SIGN TYPE	FEE
Ground Sign New Home Development Ground Sign	\$150.00 sign area of less than or equal to 2.5 m ² \$250.00 sign area from greater than 2.5 m ² to equal to 4.0 m ² \$500.00 sign area of greater than 4.0 m ²
Awning, Canopy, Marquee, Parapet, Projecting and Wall Signs	\$250.00
Billboard	\$500.00
Mobile Sign	\$100.00 for 28 consecutive days \$65.00 for 14 consecutive days
Mobile Sign advertising a grand opening or closing promotional event	\$150 for 7 consecutive days
Sidewalk Sign	\$75.00 per year
Banner	\$75.00 for 28 consecutive days
Banner advertising a grand opening or closing promotional event	\$150 for 7 consecutive days
Inflatable Sign	\$75 for 7 consecutive days
New Home Development Portable Sign	\$50.00 per year
2. SIGN VARIANCE APPLICATION	
Fee	\$670.00

SCHEDULE "A" TO BY-LAW NO. 06-243**Fees**Fee for a Sign Erected, Located
or Displayed Without a Permit

\$970.00

3. ENFORCEMENT FEESRemoval of an Unlawful
Permanent Sign\$200.00 per Sign or the actual cost of removing the
Sign, whichever is greaterStorage Charge for an Unlawful
Permanent Sign

\$50.00 per Sign per day

Removal of an Unlawful Mobile
Sign\$200.00 per Sign or the actual cost of removing the
Sign, whichever is greaterStorage Charge for an Unlawful
Mobile Sign

\$50.00 per Sign per day

Removal of an Unlawful Portable
Sign\$50.00 per Sign or the actual cost of removing the Sign,
whichever is greaterStorage Charge for an Unlawful
Portable Sign

\$25.00 per Sign per day

Storage Charge for an Unlawful
Election Sign

\$25.00 per Sign per day

4. REFUND of FEESNotwithstanding the percentages below, no refund is to be made of an amount less than
\$75.0075 percent if, in the opinion of the Designated Official, administrative functions only have
been performed50 percent if, in the opinion of the Designated Official, administrative and plan examination
functions only have been performed25 percent if the permit has been issued and no inspections have been performed
subsequent to permit issuance and the Sign has not been erected, located or displayed

SCHEDULE "B" TO BY-LAW NO. 06-243**Signs Not Requiring Permits**

No permit shall be required for Signs meeting the following regulations:

SIGN TYPE	LOCATION/ZONE	REGULATIONS
Sign in a City of Hamilton park or cemetery	City of Hamilton park or cemetery	Subject to the provision of the City of Hamilton By-law governing the park or cemetery.
Inflatable Sign advertising a holiday or festival	Private Property	Refer to Subsection 5.9.7
Election Sign	Private Property	Refer to Section 5.13
Commemorative Sign, plaques, or corner stone of a non-advertising nature	Public and Private Property	Attached to the wall of the building.
Emblem of Religious Organization	Private Property	-
Flag of a country, province, territory, municipality, corporation, organization or association	Public and Private Property	-
Sidewalk Sign	Private Property	Refer to Section 5.8
Home Occupation Sign	Residential Zone	Maximum Sign Area 0.3 m ² . Signs must be attached to and flat against the wall of the related building. Signs must be non-illuminated.
Bed and Breakfast Sign	Residential Zone	Maximum Sign Area 0.3 m ² .
No Trespass or Warning Sign	Private Property	Maximum Sign Area 0.2 m ² .
Sign advertising the sale of seasonal farm produce	Agricultural Zone	Maximum Sign Area 3.0 m ² Approval of the Owner of the Property.

SCHEDULE "B" TO BY-LAW NO. 06-243**Signs Not Requiring Permits**

No permit shall be required for Signs meeting the following regulations:

Sign associated with an agricultural use	Agricultural Zone	Maximum Sign Area 3.0 m ² .
Sign erected, located or displayed by a non-profit agricultural society for an event or fair it operates	Agricultural Zone	Maximum Sign Area 9.0 m ² Approval of the Owner of the Property.
Mural	Commercial Zone	Maximum Sign Area 50% of the wall on which the mural is displayed.
Incidental Sign	Private Property	Maximum Sign Area 1.0 m ² .
Directional Sign	Private Property	
Banner erected, located or displayed by a Charity or community organization	Private Property	Refer to Section 5.7.
Sign erected, located or displayed by a Person performing work or services on a residential Property	Private Property in Residential Zones if the service is being performed at that Property	Maximum Sign Area not exceeding 1.2 m ² and Height not exceeding 1.25 metres. No illumination. Display only during the period the work or service is being performed.
Real Estate Sign	Private Property/Residential Use	Maximum Sign Area 1.0 m ² Only erected, located, or displayed on Property for sale or rent. Display no longer than seven (7) days after a firm sale is reported to the local realtors association or seven (7) days after the Property or space has been leased.

SCHEDULE "B" TO BY-LAW NO. 06-243**Signs Not Requiring Permits**

No permit shall be required for Signs meeting the following regulations:

Real Estate Sign	Private Property/Apartment	Maximum Sign Area 4.0 m ² Only erected, located, or displayed on Property for sale or rent. Display no longer than seven (7) days after a firm sale is reported to the local realtors association or seven (7) days after the Property or space has been leased.
Real Estate Sign	Private Property Commercial/Industrial Use	Maximum Sign Area 4.0 m ² Only erected, located, or displayed on Property for sale or rent.
Open House Directional Sign		Maximum Sign Area 0.5 m ² Not erected, located, or displayed on a traffic median, traffic island, light standard or utility pole. Located no closer than 0.3 metres from the sidewalk. Displayed between 10:00 a.m. and 6:00 p.m. the day of the open house.
Construction Information Sign	Private Property	Maximum Sign Area 10.0 m ² . Display no longer than 30 days after project's completion.
Temporary Personal Sign	Private Property	Maximum Sign Area 2.0 m ² . Located 3.0 metres from the Street Line and 3.0 metres from any interior Property Line. Maximum display period of 48 hours.

SCHEDULE "B" TO BY-LAW NO. 06-243**Signs Not Requiring Permits**

No permit shall be required for Signs meeting the following regulations:

Poster	Community Bulletin Boards or Poster Sleeve at Designated Locations	<ul style="list-style-type: none"> - Paper or cardboard only. - Maximum Sign Area 22.0 cm by 28.0 cm. - Only affixed by tape. - Maximum one Poster per approved location. - Maximum display period of 21 days and not more than 3 days after the end of an advertised event.
Window Sign	Private Property	Maximum 50% of the window surface.

SCHEDULE "C" TO BY-LAW NO. 06-243**Sign Provisions For Signs Requiring Permits**

A permit shall be required for the following Signs:

Sign Type	Zone/Use	Regulations		
		Maximum Number	Maximum Sign Area	Maximum Height
Ground Sign	Refer to Subsection 5.2.11	Separation of 200.0 metres between each Ground Sign parallel with the Frontage on a Street	0.3 times the Property Frontage on which the Sign is erected, located, or displayed to a maximum area of 18.0 m ² for each Sign Face	3.5 metres (Sign Area less than 4.0 m ²)
				6.0 metres (Sign Area 4.0 m ² to 6.0 m ²)
				7.5 metres (Sign Area over 6.0 m ²)
Wall Sign	Refer to Subsection 5.3.12	-	15% of the building elevation on which the Sign is erected, located, or displayed	-
Awning, Canopy and Marquee Signs	Refer to Subsection 5.5.3	-	Graphic or lettering limited to 20% of the surface	-
Inflatable Sign not including an Inflatable Sign advertising a holiday or festival	Commercial and Industrial Zones on developed and occupied Property	Refer to Section 5.9		

SCHEDULE "C" TO BY-LAW NO. 06-243**Sign Provisions For Signs Requiring Permits**

A permit shall be required for the following Signs:

Parapet Sign	Refer to Subsection 5.3.12	1 for each side of a building	15% of the parapet	-
Projecting Sign	Commercial Zones	1	1.0 m ²	-
Billboard	Commercial and Industrial Zones on Vacant, undeveloped Property	Refer to Section 5.14		
Mobile Sign	Refer to Subsections 5.6.25 and 5.6.26	Refer to Section 5.6		
Banner not including a Banner erected, located or displayed by a Charity or community organization	Commercial, Industrial and Institutional Zones	Refer to Section 5.7		
Sidewalk Sign not including a Sidewalk Sign on private Property	Commercial use	Refer to Section 5.8		
New Home Development Ground Sign	Residential and Commercial Zones	Refer to Section 5.10		
New Home Development Portable Sign	Residential and Commercial Zones	Refer to Section 5.11		

SCHEDULE "D" TO BY-LAW NO. 06-243

By-law Laws Repealed by By-law 06-243

The Corporation of the Town of Ancaster
95-50
95-51

The Corporation of the Town of Flamborough
97-67-S

The Corporation of the Township of Glanbrook
511-94
512-94
512-1-95

The Corporation of the City of Hamilton
Subsections 5(3a), 5(3b) and 5(3c) of 66-100
Section 1 of By-law 75-127
81-160
81-218
Section 16a. of 86-77
93-003
93-121
94-056
96-092
97-026
97-075

City of Hamilton
02-368
05-154

The Corporation of the Town of Dundas
3094-79
3140-79 amends 3094-79
3213-80 amends 3094-79
3238-81 amends 3094-79
3304-81 amends 3094-79
3386-83 amends 3094-79
3422-83 amends 3094-79
3559-85
3732-88 amends 3094-79
4286-96 amends 3094-79
4333-97 amends 3094-79
4384-97 amends 3094-79
4410-98 amends 3094-79
4532-00 amends 3094-79

4579-00 amends 3094-79

The Corporation of the City of Stoney Creek

2531-88

2627-88

2792-89 amends 2627-88

2867-89 amends 267-88 and 2792-89

3042-89

3141-90

3263-90 amends 3042-89

3515-92 amends 3042-89

3721-93 amends 3042-89

3961-94 amends 3042-89

4267-95

4529-97 amends 3042-89

The Regional Municipality of Hamilton-Wentworth

R94-117

R97-030

R99-002 amends R94-117

Authority: Item 9, Public Works Committee
Report 14-008 (PW14027)
CM: April 9, 2014

Bill No. 088

CITY OF HAMILTON

BY-LAW NO. 14-088

To Amend

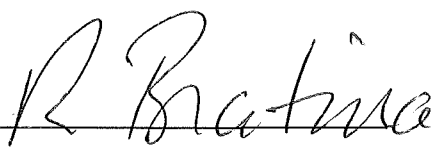
**By-law No. R77-109, the Hamilton Regional Roads By-law and
By-law No. 86-77, the Hamilton Streets By-law**

WHEREAS the Publications Boxes Annual Permit Policy replaces the provisions in By-law No. R77-109, the Hamilton Regional Roads By-law, and By-law No. 86-77, the Hamilton Streets By-law;

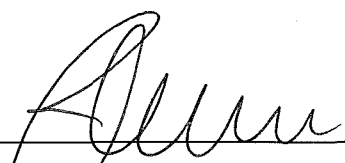
NOW THEREFORE the Council of the City of Hamilton enacts as follows:

1. Subsection 11(13a) of Schedule A of By-law No. R77-109, the Hamilton Regional Roads By-law, is deleted;
2. Subsection 11b of By-law No. 86-77, the Hamilton Streets By-law, is deleted;
3. This By-Law comes into force on the date of its passing.

PASSED this 23rd day of April, 2014.



R. Bratina
Mayor



R. Caterini
City Clerk

TAB 24

Bill No. D-45

The Corporation of the City of Hamilton

By-law No. 97-162

To Amend:

By-law No. 86-77
The Streets By-law

Respecting:

PANHANDLING

WHEREAS paragraph 140, Section 210 of the Municipal Act, R.S.O. 1990, Chapter M.45 authorizes municipalities to enact by-laws to regulate public nuisances;

AND WHEREAS Section 102 of the Municipal Act allows that every council may pass such by-laws and make such regulations for the health, safety, morality and welfare of the inhabitants of the municipality in matters not specifically provided for by the Municipal Act as may be deemed expedient and are not contrary to law;

AND WHEREAS the Council of the City of Hamilton deems it necessary to ensure citizens reasonably unencumbered access to pedestrian walkways within the City of Hamilton;

AND WHEREAS Council, on Thursday, 1997 August 7th, in adopting Section One of the Seventeenth Report for 1997 of the Finance and Administration Committee authorized this By-law;

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

Section 16 of By-law No. 86-77 is amended by the addition of the following subsections:

(12) 12.1 For the purposes of this subsection:

- (a) "*cease*" means to stop or bring to an end.
- (b) "*congregate*" means to gather into a group of more than one person.
- (c) "*obstruct*" means to interfere with or make difficult of passage.
- (d) "*officer*" means a sworn member of the Hamilton-Wentworth Regional Police Service or a municipal by-law enforcement officer appointed by the City of Hamilton.

General:

12.2 No person shall congregate and sit or stand so as to obstruct the free passage of either pedestrian or vehicular traffic on any streets or sidewalks regulated by this By-law.

12.3 Any person who obstructs pedestrian or vehicular traffic on a sidewalk or street shall, when directed to do so by an officer, cease such obstruction.

Exclusions:

- 12.4 Any parade, festive occasion or other event approved by the City of Hamilton shall be excluded from the provisions of this subsection.

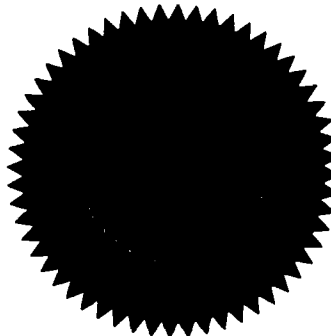
Enforcement:

- 12.5 Sworn members of the Hamilton-Wentworth Regional Police Service and municipal by-law enforcement officers of the City of Hamilton are authorized to enforce the provisions of this by-law.
- (13) 13.1 For the purposes of this subsection, "aggressive panhandling" means:
- (a) approaching, speaking to or following a person for the purpose of entreating or urging that person to give money, in such a manner as would cause a reasonable person to fear bodily harm or harm to property on the person's immediate possession;
 - (b) touching a person without their consent while panhandling from such person;
 - (c) repeatedly panhandling from a person, or following a person after a person has made a negative response; or
 - (d) panhandling by standing, sitting or otherwise in such a manner so as to intentionally block, obstruct or interfere with the safe passage of pedestrians or vehicles, including unreasonably causing a person or vehicle to take evasive action to avoid physical contact.
- 13.2 No person shall aggressively panhandle on any streets or sidewalks regulated by this by-law.
- 13.3 No person shall solicit money from any pedestrian by panhandling on any streets or sidewalks regulated by this by-law in such a manner as to interfere with the ability of pedestrians to enter business establishments located on such streets.

PASSED this 7th day of August 1997.



CITY CLERK



MAYOR

TAB 25

Bylaw Enforcement Protocol

When the Encampment Taskforce has been contacted regarding an encampment location, the following process will commence. All city services and responses will be coordinated through the Taskforce.

Persons experiencing homelessness shall be offered an assessment using the Vulnerability Index - Service Prioritization Decision Assistance Tool ("VI-SPDAT") tool for a determination of acuity. The application of this test and determination of test results shall be completed by the City of Hamilton's Mental Health Street Outreach Program on a periodic basis. The test shall have occurred within the past ninety (90) days.

The VI-SPDAT tool will determine the path for how individuals sleeping rough are approached and engaged. Below outlines the steps and circumstances available:

- For individuals with a VI-SPDAT scores below 13, or those refusing to engage with outreach workers for assessment under the VI-SPDAT tool, the maximum duration for contact, assessment and removal is 14 days from the earliest of the City or its agents making contact as requested by the Encampment Taskforce with a person experiencing homelessness. The outreach that occurs during this 14 day period will provide supports including but not limited to the following:
 - Engagement that treats every individual from a rights-based approach, ensuring dignity and confidentiality is maintained;
 - Immediate work on a personalized housing plan;
 - Informing individuals of the timeline for encampment removal;
 - Determine previous (if any) barriers affecting access into the system and attempt to resolve them
 - Assist with matters that facilitate the movement to shelter/housing including but not limited to transportation, financial assistance and storage of possessions.
- High acuity will be defined as a VI-SPDAT score of 13 or more for the purpose of the protocol for the enforcement of the bylaw. It is recognized that in rare occasions special circumstances may arise that cannot be addressed through the VI-SPDAT assessment. In those cases it is agreed that the City's designate outreach team – currently the City's Mental Health Street Outreach Program – will provide recommendations to the enhanced Encampment Task Force in those rare situations where additional considerations are required outside of the VI-SPDAT assessment.

- Where a person experiencing homelessness is assessed as high-acuity and there is no available option for supportive housing or shelter, outreach efforts will continue in order to help the individual(s) move from the streets to shelter/housing. Such individuals are subject to the prohibited locations/activities listed below but not subject to the defined 14 day timeline for removal.
- In the case of persons experiencing homelessness determined through assessment by the City to have shelter or housing options available for which the transition would not cause trauma or a decline in mental health as determined by the City's Mental Health Street Outreach Program – which are offered and refused or otherwise not accepted or who refuse to be assessed, then the City may remove such persons and their possessions under such legal authorities as may be employed by the City.

Prohibited Areas: all individuals experiencing homelessness in encampments – even when deemed high acuity or engaged with outreach in the 14-day grace period outlined above - are subject to the following restrictions and may be removed or moved if not in compliance with them:

- No more than 5 in an encampment;
- No encampments on sidewalks, roadways or boulevards;
- Encampments must not encumber an entrance or exit or deemed fire route;
- Encampments must be 50 meters from a playground, school or childcare centre;
- No encampments within any property with an environmental or heritage designation; and
- Situations where health and safety concerns exist for those living within or adjacent to an encampment will be addressed in a reasonable fashion, in good faith, on a case by case basis by the City in its sole discretion that balances the needs of both the person experiencing homelessness/encamped individuals and community members. In these situations, the City will consult with the Encampment Task Force and the City's Mental Health and Street Outreach team to determine how to best balance the needs of persons experiencing homelessness/encamped individuals and other community members.

TAB 26



INFORMATION REPORT

TO:	Chair and Members Emergency and Community Services Committee
COMMITTEE DATE:	September 9, 2021
SUBJECT/REPORT NO:	Encampment Response Update (PED21188/HSC20038(c)) (City Wide)
WARD(S) AFFECTED:	City Wide
PREPARED BY:	Monica Ciriello (905) 546-2424 Ext. 5809 Edward John (905) 546-2424 Ext. 4860
SUBMITTED BY: SIGNATURE:	Jason Thorne General Manager Planning and Economic Development Department
SUBMITTED BY: SIGNATURE:	Grace Mater General Manger Healthy and Safe Communities Department

COUNCIL DIRECTION

At its August 9, 2021 meeting, Council approved the repealing of the By-law Enforcement Protocol that permitted some individuals to camp in public spaces for up to 14 days. Further to that decision and the three-week winddown associated with it, as of August 30, 2021, the City returned to pre-protocol enforcement of City by-laws that prohibit camping on City property, including park areas.

INFORMATION

The COVID-19 pandemic highlighted and exacerbated ongoing systemic challenges and inequities across Canada as it relates to housing and homelessness. This has been demonstrated by the rise in, and visibility of, unsheltered homelessness and encampments throughout many Canadian cities. Person-centred strategies and approaches are required to address urgent issues associated with supporting residents

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**SUBJECT: Encampment Response Update (PED21188/HSC20038(c)) (City Wide) -
Page 2 of 8**

experiencing homelessness and living in encampments, while supporting long-term adequate housing solutions and broader community needs.

Encampment Process

With the repealing of the By-law Enforcement Protocol, staff will proceed with the following Encampment Process:

Step one

Complaints are received by Municipal Law Enforcement (MLE) regarding structures/tents in parks, road allowance and private property.

Step two

MLE attends, determines if there is a violation of a City By-law including the Parks Bylaw, seeks voluntary compliance and notifies Housing Outreach.

Step three

Housing Focused Street Outreach attends site and carries out the following:

- Work from Housing Focused Street Outreach framework and within the context of Hamilton's Homeless Coordinated Access System
- Support individuals, families and groups, in order to promote connection to shelter, housing and the achievement of their optimal health and well-being
- Collaborative development of housing and service plans
- Assist individuals with obtaining necessary documents needed to obtain housing, including the completion of supportive and subsidized housing applications
- Collaborate and co-ordinate services with appropriate community and health agencies
- Crisis intervention
- Provide a summary of these actions (omitting any privileged and confidential information) in the form of an encampment assessment checklist to MLE pursuant to their request

Step four

MLE re-attends and issues a verbal trespass notice and notifies Hamilton Police Service (HPS).

Step five

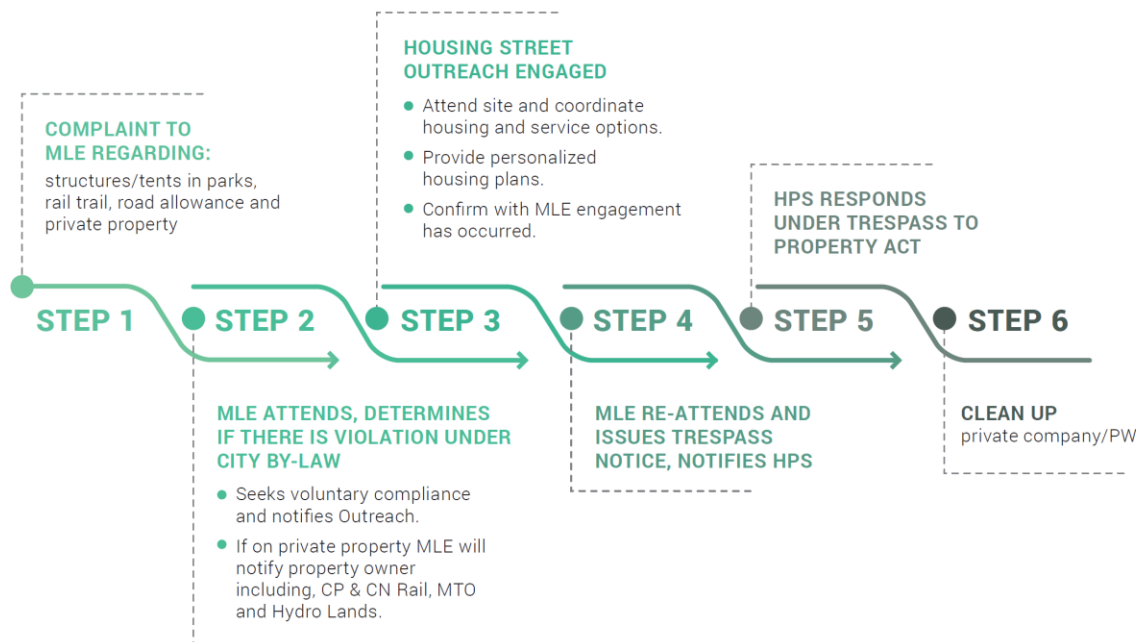
Hamilton Police Service responds under the *Trespass to Property Act*, R.S.O. 1990, c. T.21

Step six

Park and Waste Divisions are contacted to coordinate a clean up.

Table 1

Encampment PROCESS MAP



Encampment Response

The City of Hamilton's Licensing and Bylaw Services Division will be the first point of contact for complaints regarding structures and tents in parks, road allowances and private property. MLE Officers will attend to determine if there is a City Bylaw, including the Parks By-law 01-291 violation, which prohibits camping on City property, including park areas. MLE Officers will be responding to complaints proactively Monday to Friday and reactively on weekends along with other COVID-19 By-law and Provincial Regulation priorities. MLE Officers will attend, provide education and seek voluntary compliance under the City Bylaw, ticketing those who are unsheltered will not be a course of action. If determined to be private property, MLE Officers will notify the property owner, including CP & CN Rail and MTO. If voluntary compliance is not achieved, MLE Officers will reach out to the Street Outreach team within the Housing Services Division and the Social Navigator Program.

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The Housing Focused Street Outreach team will, if not already, attend the site and engage with those individuals currently unsheltered. Outreach will endeavor to provide an update summary of the site including identifying potential opportunities for connection to services and housing for those individuals, assess their needs and update MLE of the actions that have occurred.

MLE Officers will re-attend the location and, a verbal trespass notice would be issued to those contravening the bylaw. MLE will contact the Hamilton Police Service as the *Trespass to Property Act*, R.S.O. 1990, c. T.21 is a Provincial Act enforced by HPS. The City will continue to collaborate with HPS and the Social Navigator with regard to the service pathway. The last step will be to contact the Public Works Department (Parks, Streets, Waste Management) to coordinate a clean up.

Following the Council decision to repeal the By-law Enforcement Protocol, the City of Hamilton's Housing Services Division remains focused on supporting individuals experiencing homelessness in securing safe and affordable housing, by continuing to take an individualized approach to connect them to available supports.

Housing Services' Housing Focused Street Outreach Team connects with unsheltered individuals, regardless of their circumstances, to assess their immediate needs and housing preferences. The team completes common consent and intake forms for individuals not yet on the City's By-Name List (BNL), supports with benefit applications, unit viewings, harm reduction supplies, connections and referrals. As part of the City's homeless-servicing system, Outreach uses a shared system-wide database to stay connected to residents in encampments and outside of encampments in areas such as alleys, vacant lands, etc. Outreach services are provided to unsheltered residents across the geographic area of Hamilton Monday to Friday from 8:00 a.m. to 8:00 p.m. and Saturday and Sunday from 8:00 a.m. to 4:00 p.m. On a daily basis, the team undertakes progressive engagement to offer shelter or other available (and appropriate) space, works with individuals to find safe and supportive housing options, and works to address any barriers including a referral to our health partners.

During the COVID-19 pandemic, emergency shelter capacity has been expanded; however, occupancy pressures exist, particularly for women. Challenges remain in the access to available beds and in a number of instances capacity is not available. For example, length of stay in shelters has increased significantly during the pandemic and, with factors such as unaffordable costs of rent, housing availability has not kept pace with demand. Longer stays impact shelter bed turnover frequency, thus reducing the capacity of shelters to serve a higher volume of individuals. Outbreak status, availability of appropriate supports, staff turnover, shortages and burnout further impact the responsiveness of the system. When a move from encampment to emergency shelter occurs, the City of Hamilton recognizes that this remains a temporary measure of accommodation until safe, secure and adequate housing is secured.

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For individuals for whom emergency shelters are not an option, Housing Services' Outreach Team supports connection to health partners, works to address issues related to service restrictions, and continues progressive engagement towards accepting housing assistance. The City of Hamilton funds numerous agencies to assist in the housing of homeless individuals through funding streams such as the Federal Reaching Home program. City staff monitor, advise and assist these agencies in meeting predetermined targets through the homeless-serving sector's coordinated access system. From January 2020 to present, approximately 440 individuals and families have been housed by agencies funded by the City. Of the approximately 440 households housed, this includes people who have been unsheltered at one point during that time period. Since March 2020, more than 70 individuals were housed directly from encampments.

Outreach staff engage with every individual from a rights-based approach, ensuring dignity and confidentiality is maintained. On an ongoing basis, both Housing Services and agency staff work from a person-centred approach to engage with individuals in order to refer and make connections to appropriate support and resources. Referrals may include Intensive Case Management, Rapid Rehousing, Transitional or permanent supportive housing programs, in addition to housing affordability benefits, depending on individuals' needs, preferences and available resources. Increased engagement for the direct purpose of assessing effectiveness of approaches and appropriateness of available resources will continue to inform potential changes or adaptations to service and supports over time.

Coming Together to End Homelessness: Hamilton's Systems Planning Framework outlines a strategic local approach to preventing and ending homelessness, which must account for the systemic over-representation of Indigenous persons experiencing homelessness. The City is committed to ongoing coordination with Hamilton's Urban Indigenous Community to ensure that approaches to service coordination and provision are culturally appropriate, safe and built on principles of relationship, trust and informed consent. This includes ongoing discussion to achieve equitable access to resources including, for example, housing affordability benefits as they become available to support unsheltered individuals who identify as Indigenous. Through ongoing dialogue with the Indigenous community, the City aims to ensure appropriate referrals are consistently made from mainstream supports to Indigenous agencies, including at intake by City outreach staff.

The City continues to commit to permanent housing solutions by implementing increased prioritization of those in encampments for permanent housing and intensive case management support programs while continuing multi-sectoral discussions to enhance permanent housing with supports options. From September to December 2021, Housing Services Division, together with partner agencies, will undertake a

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**SUBJECT: Encampment Response Update (PED21188/HSC20038(c)) (City Wide) -
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housing campaign to maximize resources and collaboration to house 250 households experiencing homelessness.

Health and Safety Concerns

Due to the vulnerability and transience of encampment populations, health and safety concerns are present for both residents and City staff. COVID-19 exposure, verbal and sometimes physical aggressions have been noted at various sites. MLE Officers are not trained in outreach or mental health engagement techniques and therefore cannot offer support to address health and safety for encampment residents. This fact extends to include staff themselves, who navigate a challenging array of health and safety concerns when carrying out their duties. For example, Waste management staff have received numerous negative comments, which may be perceived as threats from residents, activists, advocates and the general public. Staff have been videotaped with postings on social media platforms such as Twitter and Facebook. Staff have been called repeatedly at all hours on their cell phone. In one instance a staff member was assaulted during clean up, resulting in injuries to the worker and charges being laid by Hamilton Police Service. As a result, the injured employee has yet to return to work.

There is a steady increase of incidents involving the Hamilton Fire Department and the Hamilton Police Service. Where emergency service response is needed, the City will respond swiftly with staff health and safety supports. Healthy and Safe Communities Department staff are better able to flag resident health and safety concerns to the appropriate support services for timely resolution.

The professional skillset required of Housing Service's Outreach staff facilitates mitigation of challenging behaviours, circumstances and establishment of positive rapport. Staff have been trained in non-violent crisis intervention, work only in pairs and are in constant communication with each other.

Budgetary Implications

Costs vary site to site; while staff time is not itemized by site, typical contractor costs for waste management average \$15 K. Across all encampments, average monthly security costs have been approximately \$23 K from October 2020 to July 2021.

Licensing and By-law Services

Council may direct Licensing and Bylaw Services (LBS) to enforce 7 days a week, inclusive of evenings and weekends. To oversee and coordinate the MLE officer response for encampments 7 days a week LBS requires 1 temporary FTE By-law Clerk at a cost of \$26, 162 and 1 temporary FTE MLE Officer at a cost of \$30, 795 from the date of Council approval to December 31, 2021. These staff will assist in the collection of

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weekly stats on complaints received, locations of encampments, determine priority locations in collaboration with others on the Encampment Response Team, provide status updates as to the step each encampment site is in throughout the City. MLE Officers will be attending encampment sites in pairs, and one additional temporary FTE MLE Officer will allow for a timely proactive and reactive response to each encampment site 7 days a week. The Bylaw Clerk will provide administrative support to the MLE Officers and will ensure all tracking, scheduling, monitoring, entering areas of concern, preparation of orders, and dispatch to this team 7 days a week. The total cost would be \$56,958.

Emergency Services Responses

The Hamilton Fire Department has attended to an increasing number of incidents involving encampments and individuals experiencing homelessness over the last three years (54 incidents in 2019, 82 incidents in 2020, and 101 incidents to date in 2021). The majority of incidents in 2021 to date have involved burning (controlled) and property fires/explosion.

Hamilton Paramedic Service responded to 55 encampment related calls in four parks from October 1, 2020 to August 31, 2021. There has been a steady increase in paramedic service response to encampments in City parks in 2021, ranging from two in January to 15 in August.

The Hamilton Police Service indicated there were 502 events from October 1, 2020 to August 31, 2021 related to six known encampment locations, but not necessarily due to the presence of an encampment. These incidents include events related to trespassing, assist (ambulance & fire), and other events requiring police service response (i.e. assault, harassment, protests, etc.)

Government Outreach

There remains an ongoing need to align provincial health and housing and homelessness investments to enable service managers to provide permanent housing with supports for high acuity chronically homeless individuals living in shelters and encampments. Strategic investment and partnership between Ontario Health West and City of Hamilton can demonstrably reduce chronic homelessness in Hamilton and the reliance on emergency hospital resources for those with the most complex, co-occurring needs.

Staff are actively pursuing funding opportunities from higher levels of government to address these needs. Specifically, the Ministry of Health (Ontario), Associate Minister of Mental Health and Addictions and the Ministry of Municipal Affairs and Housing (Ontario) in addition to the equivalent Ministries federally such as Health, Housing,

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Infrastructure and Communities, and Families, Children and Social Development. Staff have proposed a pilot project to the Government of Ontario in order to address the needs of high-acuity individuals in Hamilton, this pilot outlines the resources required to take immediate action.

The proposed pilot would include 40 new units of supportive housing to address the needs of higher acuity individuals and continuing existing outreach activities will address needs in a new and improved way. The total funding necessary to undertake this development is \$2,440,000. The request for on-going provincial operational funding is \$1,940,000.

Staff have been using forums like the Association of Municipalities of Ontario (AMO), Federation of Canadian Municipalities (FCM) and Ontario Big City Mayors, of which Hamilton is a member, to further advocacy and align objectives in voicing our concerns about the lack of funding from higher levels of government to address these immediate needs. AMO, FCM and Ontario Big City Mayors are focused on improving supports for mental health. Ontario Big City Mayors has provided recommendations to support and complement the Province's Road to Wellness plan which seeks to improve mental health and addictions services across Ontario. The proposed recommendations and desire to collaborate demonstrate the need for municipalities to work with other levels of government and local service providers to ensure residents can access the help they need, where and when they need it.

APPENDICES AND SCHEDULES ATTACHED

None

TAB 27

Encampment Protocol – with Amendments

A) Shared Principles

When engaging in encampment response, all staff in a frontline capacity will use the same philosophical approach. In all interactions with people who are living unsheltered, staff will engage utilizing a human-centered, housing first, health-focused, rights-based approach. All actions will be guided by a commitment to upholding the human rights and human dignity of all individuals living in encampments, temporary shelters, or tents. Staff will also work to build rapport through mutual respect, effective communication, empathy, and by maintaining transparency around the expectations of individuals living in encampments, temporary shelters, or tents and City staff.

It is vital that all actions taken in the Protocol are grounded in the understanding that housing is a fundamental human need, and that people in our community deserve housing and homelessness responses that are based on intentional planning and good evidence and that have measurable positive impacts and outcomes. Working to provide permanent housing for all is critical and will require an ongoing commitment from the City, community, and other levels of government to find innovative, meaningful solutions.

B) Complaints and Service Request Information:

Individuals in the community who encounter an active or abandoned encampment, temporary shelter, or tent, or someone who is living unsheltered, and/or have questions or concerns about an encampment, should contact the Coordinated Response Team led by Housing Focused Street Outreach by email at unsheltered@hamilton.ca or by phone at 905-546-2828.

Any contacts made with other internal City divisions or through other City channels regarding encampments, temporary shelters, or tents will also be forwarded to Housing Focused Street Outreach for first response.

C) Alignment to Housing Resources and Supports

In establishing a housing-focused approach to interacting with individuals living unsheltered and/or in encampments, all individuals will be given an opportunity to complete a Vulnerability Index – Service Prioritization Decision Assistance Tool (VI-SPDAT)

In the context of individuals living in encampments, temporary shelters, or tents, the Vulnerability Index – Service Prioritization Decision Assistance Tool is a triage tool, with a series of questions asked by Housing Focused Street Outreach staff to individuals who are experiencing homelessness. The assessment tool is used to support conversations where staff learn about an individual's housing situation, needs, and strengths to help build a plan to achieve stable housing. It is also used to inform additional supports that may be needed and/or help prioritize housing interventions

within Hamilton's Homeless-serving System likely to be most beneficial to support an individual's needs, preferences, and long-term housing outcomes.

There is no requirement for anyone who is living in an encampment, temporary shelter, or tent to complete the Vulnerability Index – Service Prioritization Decision Assistance Tool and it will have no bearing on whether they are able to stay in a particular location or for a specific duration of time. The assessment tool will only be used to help connect individuals experiencing homelessness to housing resources and supports.

D) Prohibited Areas for Erecting Encampments, Temporary Shelters, or Tents

In order to provide for the availability of space for temporary shelter in parks, persons without shelter or being homeless will be able to establish an encampment through erecting a temporary shelter for themselves and also be able group together with other such persons' temporary shelters. However, the encampment or cluster of shelters must not exceed five tents or similar temporary shelters, and there must be at least 50 meters separating the encampment or cluster from other encampments or clusters of shelters. Further, the balancing of public and private interests while allowing for temporary shelter will require encampments or clusters not be located:

- On or within 100 meters of a school or children daycare centre
- On or within 100 meters of a playground, pool, waterpark, or any spray pad
- On or within 50 metres of any lake, beach, pond, watercourse or other body of water, or a dock
- Within 10 meters of any private property line
- On or within 50 metres of the Hamilton Alliance for Tiny Shelters model site. For the purpose of this site the full length of the Strachan Linear Park, Bay Street North to Ferguson Street North, will be considered the site.
- On or within 5 meters of any transit stop or a highway and specifically including a sidewalk, boulevard, or bridge or tunnel being part of such highway
- On or within 5 meters of any property with an environmental or heritage designation
- On or within 50 meters of any sports fields, inclusive of but not limited to, skateboard parks, fitness amenities, golf courses, ball diamonds, soccer pitches, tennis courts, or any other sports or multi-use courts, as well as stadiums, dugouts, stages, and bleachers.
- On any fenced-in, off-leash dog area
- On any cemetery, including its roads, lanes and paths for travel within the cemetery
- On any community garden and including any garden shed or greenhouse
- On any pathway, sidewalk, or parking lot or on or under any bridge, including pedestrian access points to such areas and structures
- On or within any designated fire route, or the entrance to or exit from a designated fire route, or located so as to block any fire hydrant

- On or within any entrance, exit or a doorway to a building or structure, and including, without limiting the generality of the foregoing, an area adjacent to such entrances or exits required in the event of fire or emergency
- On or within any accessibility entrance or ramp or located in a way that blocks access to such entrances or ramps.
- On or within any area identified susceptible to flooding, erosion, slope instability, or other environmental hazards that presents a risk to health and safety.
- Further no temporary shelter or tent will be placed against, or under, or be attached or tied to any building or permanent structure. All shelters or tents must be freestanding.

E) Campfire and Barbecue Use

Section 14 of By-Law 01-219, the Parks By-Law, which regulates campfires and barbecues in City Parks; as well as By-Law No. 02-283, the Open Air Burning By-Law, which regulates open-air burning within the City, shall be complied with and will be enforced.

F) Maximum Personal Space Allotment(s)

The total area for a single tent and all its associated belongings cannot exceed beyond a 3-metre-by-3-metre area, or 9-metres-squared, and the total area for five tents within a cluster cannot exceed beyond a total area of 45-metres-squared. The following chart identifies space limits by number of temporary shelters or tents:

Number of Temporary Shelters/Tents within Encampment Cluster	Maximum Total Space Allotment (metres)
One	9m ²
Two	18m ²
Three	27m ²
Four	36m ²
Five	45m ²

Any items located outside of the allotted personal space area will be subject to removal by City staff.

G) Encampment Response Processes

Given that there are several circumstances that require a unique response from the Coordinated Response Team, the following guidelines have been established to direct responses to people living in encampments, and their temporary shelters, or tents:

- A) When an encampment, temporary shelter, or tent is located on public property, and not within a prohibited area, as defined by this Protocol:

1. Within 72 hours after receiving a complaint or request for service (unless exceptional circumstances exist), Housing Focused Street Outreach staff will engage with the individual(s) living within an encampment, temporary shelter, or tent to better understand their needs and connect them with internal and community supports, including housing-focused case management; referral into the emergency shelter system; referrals to health agencies, social assistance supports, and specialized outreach supports; and any other relevant supports available that would improve an individual's health and wellbeing.
 2. If no health and safety issues are observed by Housing Focused Street Outreach (see Section J, 'Health and Safety' for further detail on specific circumstances or factors), and the encampment, temporary shelter, or tent complies with the prohibitions and locations outlined in this Protocol, individuals will be allowed to maintain and occupy temporary such shelter for the duration of the Protocol, as defined by City Council. Housing Focused Street Outreach will continue to engage with the individual(s) on an ongoing basis to provide supports and referrals as needed and work towards goals in individualized housing plans.
 3. Only if a substantial change in circumstances is observed by Housing Focused Street Outreach in subsequent visits to the encampment, temporary shelter, or tent, such as new significant health or safety issues, will Hamilton Police Services be asked to attend to support any response. Hamilton Police Services will attend encampments within the normal course of responding to emergencies and other policing duties, and Housing Focused Street Outreach and other City partners will work cooperatively with Hamilton Police Services if a concern related to health and safety is identified at an encampment.
 4. Any items or circumstances that are of clear and immediate risk to the individuals living in an encampment or neighbouring encampments or the broader public will result in a call for immediate emergency response. Hamilton Police Service Encampment Engagement Officers will attend the location and conduct a risk assessment when requested and as required.
- B) When an encampment, temporary shelter, or tent is located on public property, within a prohibited area, as defined by this Protocol:
1. Within 72 hours after receiving a complaint or request for service (unless exceptional circumstances exist), Housing Focused Street Outreach staff will engage with individual(s) living within an encampment, temporary shelter, or tent to better understand their needs and connect them with internal and community supports, including housing-focused case management; referral into the emergency shelter system; referrals to health agencies, social assistance

supports, and specialized outreach supports; and any other relevant supports available that would improve an individual's health and wellbeing. Housing Focused Street Outreach will have available information about possible suitable and compliant sites and will consider the needs and choices of the individual and collaborate with the individual(s) living within an encampment, temporary shelter, or tent, to identify a more suitable area that meets the conditions noted within this Protocol.

2. If after visiting an encampment, temporary shelter, or tent, Housing Focused Street Outreach staff observe the encampment, temporary shelter, or tent to be in a prohibited area, as defined by this Protocol, ***Housing Focused Outreach they will contact Municipal Law Enforcement to conduct a follow-up assessment within 72 hours of receiving the initial complaint, and Municipal Law Enforcement will respond to the within 4 business days.***
3. Municipal Law Enforcement Officers will visit the site within four business days and confirm whether the encampment, temporary shelter, or tent is in a prohibited area. If so, Municipal Law Enforcement Officers will notify the individual(s) living at the location via a Notice of Trespass and verbally, if possible, that they are in a prohibited area, and that they will be required to move from the existing location.
4. Municipal Law Enforcement Officers will determine compliance timelines depending on the presenting circumstances, for the issuance of notices or actions to be taken in respect to the encampment, temporary shelter, or tent, within a maximum of ~~14~~ 4 total days from the issuance of notice, unless exceptional circumstances exist. For example, if the Municipal Law Enforcement Officers observes a significant health or safety issue for the individual due to placing a shelter on a highway the Municipal Law Enforcement Officers will take more urgent action to require compliance or remediate the concern and may seek Hamilton Police Services support. If there are few or no immediate health, safety, or other concerns due to encampment or its location within a prohibited area, Municipal Law Enforcement Officers will allow for more time, up to a maximum of ~~14~~ 4 days, unless exceptional circumstances exist, to engage with the individuals in an encampment, temporary shelter, or tent around supports and next steps.
5. After a Trespass Notice has been served and prior to an area being cleared, Housing Focused Street Outreach's will continue to engage with individual(s) at the location to identify alternate sheltering options and attempt to address any barriers to shelter or housing, such as lack of identification or item storage.
6. If the duration of time provided by a Trespass Notice expires and individual(s) at the site has not moved voluntarily and are unwilling to move, Municipal Law Enforcement Officers will notify Hamilton Police Services Encampment

Engagement Officers. Hamilton Police Services will be available to support and assist the Municipal Law Enforcement Officers, operational plan, and/or the individual(s) living at the encampment, temporary shelter, or tent to vacate the prohibited area.

7. Hamilton Police Services Encampment Engagement Officers will interact with individuals in encampments, temporary shelters, or tents at the request of Housing Focused Street Outreach and/or Municipal Law Enforcement, in a supportive capacity. Otherwise, their level of intervention will be dictated by their own internal policies and the circumstances at a given encampment, temporary shelter, or tent site.
 8. Parks staff will coordinate the clean-up, to be completed either by Parks staff, Roads staff, or the contractor, depending on the location, within 72 hours, with discretion for extenuating circumstances such as inclement weather.
- C) When an encampment, temporary shelter, or tent is located on public property, is not located in a prohibited area, but health and safety concerns are identified:
1. If Housing Focused Street Outreach identify or confirm a health or safety issue at an encampment, temporary shelter, or tent, and depending on circumstances, will address or may collaborate with appropriate partners to address the health and safety concerns identified.
 2. If the health and safety concern is considered serious and/or imminent (e.g., exposed electrical wiring, accumulation of discarded needles, use of propane tanks and other combustible materials, possession of weapons) as identified by Housing Focused Street Outreach or Hamilton Police Services Encampment Engagement Officers, Hamilton Police Services will follow appropriate policing responses required in the circumstances. In addition, they will communicate with the Coordinated Response Team and prioritize working with community partners to address any remaining safety concern. These partners may include Hamilton Fire Department, Hamilton Public Health's Community Points program, Hamilton Parks, or any other parties deemed necessary to address the observed health and safety concerns.
 3. All items determined by Hamilton Police Services and/or partners to be a serious risk to the health and safety of individual(s) living at the encampment, temporary shelter, or tent, as well as the public will be removed at the earliest opportunity.
 4. If the encampment, temporary shelter, or tent is also in an area deemed to be prohibited based upon the provisions identified in Section D of this Protocol, and after health and/or safety issues placing Municipal Law Enforcement Officers at

risk have been removed, Municipal Law Enforcement Officers will initiate steps 4-9 in Encampment Response Process B – *“If an encampment is located on public property, in a prohibited area.”*

5. If all serious health and/or safety issues have been removed or otherwise corrected, and the encampment, temporary shelter, or tent is not located in a prohibited area as designated in Section D of this Protocol, then the individual(s) will be permitted to remain where they are, in accordance with Encampment Response Process A.

H) Encampments on Private Property

Encampments, temporary shelters, or tents identified on private property are primarily the responsibility of the property owner. Where the owner has not provided consent, concerns of the owner are within Hamilton Police Services’ jurisdiction and will be subject to ordinary enforcement procedures in accordance with applicable laws.

Hamilton Police Services may seek the assistance of Municipal Law Enforcement Officers as appropriate or required in the circumstances.

Provided the property owner permits, Housing Focused Street Outreach will engage with encampment, temporary shelter, or tent residents to identify alternate sheltering options and attempt to address any barriers to shelter or housing. Additionally, Housing Focused Street Outreach will work with individuals at the encampment, temporary shelter, or tent to provide supports and referrals as needed and work towards goals in individualized housing plans.

I) Process for Designating an Encampment, Temporary Shelter, or Tent as Abandoned

While Housing Focused Street Outreach is aware of many encampments, temporary shelters, and tents in the community, people living in encampments, temporary shelters, and tents may move to new locations and/or may abandon a previous site without Housing Focused Street Outreach’s or other Coordinated Response Team partners’ knowledge. Given that maintaining one’s possessions while experiencing homelessness is vital to a human-rights based approach, staff will be cautious when deeming a site to be abandoned.

The following process will be followed regarding potentially abandoned sites on public property:

1. If Housing Focused Street Outreach have not interacted with anyone at a particular site and/or there has been observed inactivity for at least three (3) days, they will review the site with the Coordinated Response Team partners at

the nearest opportunity to confirm there has been no recent activity witnessed at the site.

2. If Coordinated Response Team partners (i.e., Municipal Law Enforcement, Hamilton Police Services, Parks) have not witnessed anyone at the site and/or can confirm that the former inhabitants of the site have moved elsewhere, Housing Focused Street Outreach will place a notice at the site in a conspicuous area informing potential residents that the site is due to be cleaned in three (3) days from the time of the notice being placed.
3. Within the three-day timeline, all reasonable attempts will be made by Housing Focused Street Outreach and/or other Coordinated Response Team partners to ensure that individuals known to be previously staying at a site have been made aware that their former site will be deemed abandoned and cleaned.
4. If no interaction has been made by Housing Focused Street Outreach with the former inhabitants at the site, no attempts have been made by the former inhabitants of the site to contact Housing Focused Street Outreach, and/or no other changes are observed at the site by the end of the allotted time, Housing Focused Street Outreach will provide approval to Parks Section to clean the site.
5. Parks staff will coordinate the clean-up, to be completed either by Parks staff, Roads staff, or the contractor, within 72 hours of approval, with discretion for extenuating circumstances such as inclement weather.

Clean-up and maintenance of encampments, temporary shelters, or tents previously on private property are the responsibility of the property owner.

J) Health and Safety

Defining specific health and safety issues is difficult and can be based upon several factors unique to a particular site or circumstance. Some examples include, exposed electrical wiring, accumulation of discarded needles, illegal activity, abuse, threats or violence against staff, HPS or other persons, improper use or storage of propane tanks and other flammable materials, and acts involving weapons. Health and safety issues may also be identified via complaints from the public and/or businesses in relation to the encampment, temporary shelter, or tent; for example regarding harassment, vandalism, and/or stolen personal property.

Housing Focused Street Outreach staff will notify Animal Services when a pet is encountered at an encampment site. Housing Focused Street Outreach staff will collaborate with appropriate parties including the pet owner to identify how to best support the pet and pet owner, including implementing strategies to reduce any potential harms to the pet owner, public, City staff and the animal.

Health and safety concerns existing for those living within or adjacent to an encampment, temporary shelter, or tent will be addressed in a reasonable and timely fashion, in good faith, on a case-by-case basis, prioritizing the seriousness of the concern and recognizing that there is a need to balance the needs of both the individual living in an encampment, temporary shelter, or tent and community members.

In situations where the need to intervene is less acute, the City may consult with additional internal and external partners to determine how to best balance the needs of individuals living encamped and community members.

If at any time City staff encounter someone in medical distress requiring immediate attention, witness violence, or believe violence to be imminent to people living in encampments, temporary shelters, or tents, staff, or community members, they will notify emergency medical, Hamilton Fire Department, or Hamilton Police Services, including members of the Hamilton Police Crisis Response Branch), to have the appropriate services dispatched. Additionally, City staff will leave the site irrespective of all procedures above, if their health and safety is currently being, or at risk of being threatened. To ensure safety of staff, the presence of Hamilton Police Services may be required while visiting the site.

K) Reporting

To provide ongoing accountability and transparency to the City's encampment response program and the implementation of its encampment protocol, communication with Council and Ward Councillors regarding the Encampment Protocol will be through monthly, ongoing **Information Reports to General Issues Committee Council** and include data and trends, operational updates, and any continuous improvement measures implemented to further efforts toward providing ongoing accountability and transparency to the City's encampment response program and the implementation of its encampment protocol. Where a Ward Councillor requests information regarding a specific encampment site within their ward, Housing Focused Street Outreach will provide an update as to whether the encampment has been deemed to be within a prohibited area. Reporting on the status of outreach or enforcement activities will be limited to the monthly Council reports.

L) Communicating Protocol to Residents of Encampments

An engagement strategy has been developed to update unsheltered individuals living in encampments about the Protocol as well as to communicate expectations of places within the City where encampments, temporary shelters, or tents can be erected.

The following approaches will be taken to build understanding of the Protocol:

- Housing Focused Street Outreach workers will have an information sheet outlining expectations of the Protocol, to be shared with unsheltered individuals when staff visit an encampment. Additionally, outreach staff will collaborate with individuals to understand their needs and choices in order to

identify suitable locations (compliant sites) within the City where the individual can set up a temporary shelter or tent.

- Information sheets will also be shared with external frontline service providers who manage drop-ins, emergency shelters, and other related services and programs providers in the community, which can be posted in their locations and also communicated to staff throughout these organizations.
- City partners who also engage in frontline response, i.e., Parks Section and Municipal Law Enforcement, will also be provided information sheets to share with unsheltered individuals within the City, and community partners upon request.
- The City will post the Encampment Protocol and information sheet on the City's website for public access.

TAB 28



CITY OF HAMILTON
**ENCAMPMENT
PROTOCOL**



Hamilton

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A) Shared Principles

When engaging in encampment response, all staff in a frontline capacity will use the same philosophical approach. In all interactions with people who are living unsheltered, staff will engage utilizing a human-centered, housing first, health-focused, rights-based approach. All actions will be guided by a commitment to upholding the human rights and human dignity of all individuals living in encampments, temporary shelters, or tents. Staff will also work to build rapport through mutual respect, effective communication, empathy, and by maintaining transparency around the expectations of individuals living in encampments, temporary shelters, or tents and City staff.

It is vital that all actions taken in the Protocol are grounded in the understanding that housing is a fundamental human need, and that people in our community deserve housing and homelessness responses that are based on intentional planning and good evidence and that have measurable positive impacts and outcomes. Working to provide permanent housing for all is critical and will require an ongoing commitment from the City, community, and other levels of government to find innovative, meaningful solutions.

B) Complaints and Service Request Information:

Individuals in the community who encounter an active or abandoned encampment, temporary shelter, or tent, or someone who is living unsheltered, and/or have questions or concerns about an encampment, should contact the Coordinated Response Team led by Housing Focused Street Outreach by email at unsheltered@hamilton.ca or by phone at 905-546-2828.

Any contacts made with other internal City divisions or through other City channels regarding encampments, temporary shelters, or tents will also be forwarded to Housing Focused Street Outreach for first response.

C) Alignment to Housing Resources and Supports

In establishing a housing-focused approach to interacting with individuals living unsheltered and/or in encampments, all individuals will be given an opportunity to complete a Vulnerability Index – Service Prioritization Decision Assistance Tool (VI-SPDAT)

In the context of individuals living in encampments, temporary shelters, or tents, the Vulnerability Index – Service Prioritization Decision Assistance Tool is a triage tool, with a series of questions asked by Housing Focused Street Outreach staff to individuals who are experiencing homelessness. The assessment tool is used to support conversations where staff learn about an individual's housing situation, needs, and strengths to help build a plan to achieve stable housing. It is also used to inform additional supports that may be needed and/or help prioritize housing interventions

within Hamilton's Homeless-serving System likely to be most beneficial to support an individual's needs, preferences, and long-term housing outcomes.

There is no requirement for anyone who is living in an encampment, temporary shelter, or tent to complete the Vulnerability Index – Service Prioritization Decision Assistance Tool and it will have no bearing on whether they are able to stay in a particular location or for a specific duration of time. The assessment tool will only be used to help connect individuals experiencing homelessness to housing resources and supports.

D) Prohibited Areas for Erecting Encampments, Temporary Shelters, or Tents

In order to provide for the availability of space for temporary shelter in parks, persons without shelter or being homeless will be able to establish an encampment through erecting a temporary shelter for themselves and also be able group together with other such persons' temporary shelters. However, the encampment or cluster of shelters must not exceed five tents or similar temporary shelters, and there must be at least 50 metres separating the encampment or cluster from other encampments or clusters of shelters. Further, the balancing of public and private interests while allowing for temporary shelter will require encampments or clusters not to be located:

On or within **100 metres** of:

- a school or children daycare centre; and,
- spaces that are designed and programmed for children; and,
- a playground, pool, waterpark, or any spray pad; and,
- a funeral home; and,
- a long-term care facility.

On or within **50 metres** of:

- any lake, beach, pond, watercourse or other body of water, or a dock; and,
- any sports fields, inclusive of but not limited to, skateboard parks, fitness amenities, golf courses, ball diamonds, soccer pitches, tennis courts, or any other sports or multi-use courts, as well as stadiums, dugouts, stages, and bleachers.

On or within **25 metres** of:

- an active construction site.

On or within **10 metres** of:

- any private property lines.

On or within **5 metres** of:

- any transit stop or a highway and specifically including a sidewalk, boulevard, or bridge or tunnel being part of such highway; and,
- any property with an environmental or heritage designation; and,
- any pathway, walkway, sidewalk, or parking lot or on or under any bridge including pedestrian access points to such areas and structures.

Encampments are **NOT to be located** on or within any:

- the full length of the Strachan Linear Park,
- fenced-in, off-leash dog area,
- cemetery, including its roads, lanes and paths for travel within the cemetery,
- community garden and including any garden shed or greenhouse; and,
- designated fire route, or the entrance to or exit from a designated fire route, or located so as to block any fire hydrant,
- entrance, exit or a doorway to a building or structure, and including, without limiting the generality of the foregoing, an area adjacent to such entrances or exits required in the event of fire or emergency,
- accessibility entrance or ramp or located in a way that blocks access to such entrances or ramps,
- area identified susceptible to flooding, erosion, slope instability, or other environmental hazards that presents a risk to health and safety,
- Further no temporary shelter or tent will be placed against, or under, or be attached or tied to any building or permanent structure. All shelters or tents must be freestanding.

E) Campfire and Barbecue Use

Section 14 of By-Law 01-219, the Parks By-Law, which regulates campfires and barbecues in City Parks; as well as By-Law No. 02-283, the Open Air Burning By-Law, which regulates open-air burning within the City, shall be complied with and will be enforced.

F) Maximum Personal Space Allotment(s)

The total area for a single tent and all its associated belongings cannot exceed beyond a 3-metre-by-3-metre area, or 9-metres-squared, and the total area for five tents within a cluster cannot exceed beyond a total area of 45-metres-squared. The following chart identifies space limits by number of temporary shelters or tents:

Number of Temporary Shelters/Tents within Encampment Cluster	Maximum Total Space Allotment (metres)
One	9m ²
Two	18m ²
Three	27m ²
Four	36m ²
Five	45m ²

Any items located outside of the allotted personal space area will be subject to removal by City staff.

G) Encampment Response Processes

Given that there are several circumstances that require a unique response from the Coordinated Response Team, the following guidelines have been established to direct responses to people living in encampments, and their temporary shelters, or tents:

- I. When an encampment, temporary shelter, or tent is located on public property, and not within a prohibited area, as defined by this Protocol:
 1. Within 72 hours after receiving a complaint or request for service (unless exceptional circumstances exist), Housing Focused Street Outreach staff will engage with the individual(s) living within an encampment, temporary shelter, or tent to better understand their needs and connect them with internal and community supports, including housing-focused case management; referral into the emergency shelter system; referrals to health agencies, social assistance supports, and specialized outreach supports; and any other relevant supports available that would improve an individual's health and wellbeing.
 2. If no health and safety issues are observed by Housing Focused Street Outreach (see Section J, 'Health and Safety' for further detail on specific circumstances or factors), and the encampment, temporary shelter, or tent complies with the prohibitions and locations outlined in this Protocol, individuals will be allowed to maintain and occupy temporary such shelter for the duration of the Protocol, as defined by City Council. Housing Focused Street Outreach will continue to engage with the individual(s) on an ongoing basis to provide supports and referrals as needed and work towards goals in individualized housing plans.
 3. Only if a substantial change in circumstances is observed by Housing Focused Street Outreach in subsequent visits to the encampment, temporary shelter, or tent, such as new significant health or safety issues, will Hamilton Police Services be asked to attend to support any response. Hamilton Police Services will attend encampments within the normal course of responding to emergencies and other policing duties, and Housing Focused Street Outreach and other City partners would work cooperatively with Hamilton Police Services if a concern related to health and safety is identified at an encampment.
 4. Any items or circumstances that are of clear and immediate risk to the individuals living in an encampment or neighbouring encampments or the broader public will result in a call for immediate emergency response. Hamilton Police Service Encampment Engagement Officers will attend the location and conduct a risk assessment when requested and as required.
- II. When an encampment, temporary shelter, or tent is located on public property, within a prohibited area, as defined by this Protocol:

1. Within 72 hours after receiving a complaint or request for service (unless exceptional circumstances exist), Housing Focused Street Outreach staff will engage with individual(s) living within an encampment, temporary shelter, or tent to better understand their needs and connect them with internal and community supports, including housing-focused case management; referral into the emergency shelter system; referrals to health agencies, social assistance supports, and specialized outreach supports; and any other relevant supports available that would improve an individual's health and wellbeing. Housing Focused Street Outreach will have available information about possible suitable and compliant sites and will consider the needs and choices of the individual and collaborate with the individual(s) living within an encampment, temporary shelter, or tent, to identify a more suitable area that meets the conditions noted within this Protocol.
2. If after visiting an encampment, temporary shelter, or tent, Housing Focused Street Outreach staff observe the encampment, temporary shelter, or tent to be in a prohibited area, as defined by this Protocol, Housing Focused Street Outreach will contact Municipal Law Enforcement within 72 hours of receiving the initial complaint, and Municipal Law Enforcement will respond to the within four (4) business days.
3. Municipal Law Enforcement Officers will visit the site within four business days and confirm whether the encampment, temporary shelter, or tent is in a prohibited area. If so, Municipal Law Enforcement Officers will notify the individual(s) living at the location via a Notice of Trespass and verbally, if possible, that they are in a prohibited area, and that they will be required to move from the existing location.
4. Municipal Law Enforcement Officers will determine compliance timelines depending on the presenting circumstances, for the issuance of notices or actions to be taken in respect to the encampment, temporary shelter, or tent, within a maximum of four (4) total days from the issuance of notice, unless exceptional circumstances exist. For example, if the Municipal Law Enforcement Officers observes a significant health or safety issue for the individual due to placing a shelter on a highway the Municipal Law Enforcement Officers will take more urgent action to require compliance or remediate the concern and may seek Hamilton Police Services support. If there are few or no immediate health, safety, or other concerns due to encampment or its location within a prohibited area, Municipal Law Enforcement Officers will allow for more time, up to a maximum of four (4) total days, unless exceptional circumstances exist, to engage with the individuals in an encampment, temporary shelter, or tent around supports and next steps.
5. After a Trespass Notice has been served and prior to an area being cleared, Housing Focused Street Outreach's will continue to engage with individual(s) at the location to identify alternate sheltering options and attempt to address any

barriers to shelter or housing, such as lack of identification or item storage.

6. If the duration of time provided by a Trespass Notice expires and individual(s) at the site has not moved voluntarily and are unwilling to move, Municipal Law Enforcement Officers will notify Hamilton Police Services Encampment Engagement Officers. Hamilton Police Services will be available to support and assist the Municipal Law Enforcement Officers, operational plan, and/or the individual(s) living at the encampment, temporary shelter, or tent to vacate the prohibited area.
7. Hamilton Police Services Encampment Engagement Officers will interact with individuals in encampments, temporary shelters, or tents at the request of Housing Focused Street Outreach and/or Municipal Law Enforcement, in a supportive capacity. Otherwise, their level of intervention will be dictated by their own internal policies and the circumstances at a given encampment, temporary shelter, or tent site.
8. Parks staff will coordinate the clean-up, to be completed either by Parks staff, Roads staff, or the contractor, depending on the location, within 72 hours, with discretion for extenuating circumstances such as inclement weather.

III. When an encampment, temporary shelter, or tent is located on public property, is not located in a prohibited area, but health and safety concerns are identified:

1. If Housing Focused Street Outreach identify or confirm a health or safety issue at an encampment, temporary shelter, or tent, and depending on circumstances, will address or may collaborate with appropriate partners to address the health and safety concerns identified.
2. If the health and safety concern is considered serious and/or imminent (e.g., exposed electrical wiring, accumulation of discarded needles, use of propane tanks and other combustible materials, possession of weapons) as identified by Housing Focused Street Outreach or Hamilton Police Services Encampment Engagement Officers, Hamilton Police Services will follow appropriate policing responses required in the circumstances. In addition, they will communicate with the Coordinated Response Team and prioritize working with community partners to address any remaining safety concern. These partners may include Hamilton Fire Department, Hamilton Public Health's Community Points program, Hamilton Parks, or any other parties deemed necessary to address the observed health and safety concerns.
3. All items determined by Hamilton Police Services and/or partners to be a serious risk to the health and safety of individual(s) living at the encampment, temporary shelter, or tent, as well as the public will be removed at the earliest opportunity.
4. If the encampment, temporary shelter, or tent is also in an area deemed to be

prohibited based upon the provisions identified in Section D of this Protocol, and after health and/or safety issues placing Municipal Law Enforcement Officers at risk have been removed, Municipal Law Enforcement Officers will initiate steps 4-9 in Encampment Response Process B – *“If an encampment is located on public property, in a prohibited area.”*

5. If all serious health and/or safety issues have been removed or otherwise corrected, and the encampment, temporary shelter, or tent is not located in a prohibited area as designated in Section D of this Protocol, then the individual(s) will be permitted to remain where they are, in accordance with Encampment Response Process A.

H) Encampments on Private Property

Encampments, temporary shelters, or tents identified on private property are primarily the responsibility of the property owner. Where the owner has not provided consent, concerns of the owner are within Hamilton Police Services' jurisdiction and will be subject to ordinary enforcement procedures in accordance with applicable laws.

Hamilton Police Services may seek the assistance of Municipal Law Enforcement Officers as appropriate or required in the circumstances.

Provided the property owner permits, Housing Focused Street Outreach will engage with encampment, temporary shelter, or tent residents to identify alternate sheltering options and attempt to address any barriers to shelter or housing. Additionally, Housing Focused Street Outreach will work with individuals at the encampment, temporary shelter, or tent to provide supports and referrals as needed and work towards goals in individualized housing plans.

I) Process for Designating an Encampment, Temporary Shelter, or Tent as Abandoned

While Housing Focused Street Outreach is aware of many encampments, temporary shelters, and tents in the community, people living in encampments, temporary shelters, and tents may move to new locations and/or may abandon a previous site without Housing Focused Street Outreach's or other Coordinated Response Team partners' knowledge. Given that maintaining one's possessions while experiencing homelessness is vital to a human-rights based approach, staff will be cautious when deeming a site to be abandoned.

The following process will be followed regarding potentially abandoned sites on public property:

1. If Housing Focused Street Outreach have not interacted with anyone at a particular site and/or there has been observed inactivity for at least three (3) days, they will review the site with the Coordinated Response Team partners at

the nearest opportunity to confirm there has been no recent activity witnessed at the site.

2. If Coordinated Response Team partners (i.e., Municipal Law Enforcement, Hamilton Police Services, Parks) have not witnessed anyone at the site and/or can confirm that the former inhabitants of the site have moved elsewhere, Housing Focused Street Outreach will place a notice at the site in a conspicuous area informing potential residents that the site is due to be cleaned in three (3) days from the time of the notice being placed.
3. Within the three-day timeline, all reasonable attempts will be made by Housing Focused Street Outreach and/or other Coordinated Response Team partners to ensure that individuals known to be previously staying at a site have been made aware that their former site will be deemed abandoned and cleaned.
4. If no interaction has been made by Housing Focused Street Outreach with the former inhabitants at the site, no attempts have been made by the former inhabitants of the site to contact Housing Focused Street Outreach, and/or no other changes are observed at the site by the end of the allotted time, Housing Focused Street Outreach will provide approval to Parks Section to clean the site.
5. Parks staff will coordinate the clean-up, to be completed either by Parks staff, Roads staff, or the contractor, within 72 hours of approval, with discretion for extenuating circumstances such as inclement weather.

Clean-up and maintenance of encampments, temporary shelters, or tents previously on private property are the responsibility of the property owner.

J) Health and Safety

Defining specific health and safety issues is difficult and can be based upon several factors unique to a particular site or circumstance. Some examples include, exposed electrical wiring, accumulation of discarded needles, illegal activity, abuse, threats or violence against staff, HPS or other persons, improper use or storage of propane tanks and other flammable materials, and acts involving weapons. Health and safety issues may also be identified via complaints from the public and/or businesses in relation to the encampment, temporary shelter, or tent; for example, regarding harassment, vandalism, and/or stolen personal property.

Housing Focused Street Outreach staff will notify Animal Services when a pet is encountered at an encampment site. Housing Focused Street Outreach staff will collaborate with appropriate parties including the pet owner to identify how to best support the pet and pet owner, including implementing strategies to reduce any potential harms to the pet owner, public, City staff and the animal.

Health and safety concerns existing for those living within or adjacent to an encampment, temporary shelter, or tent will be addressed in a reasonable and timely fashion, in good faith, on a case-by-case basis, prioritizing the seriousness of the concern and recognizing that there is a need to balance the needs of both the individual living in an encampment, temporary shelter, or tent and community members.

In situations where the need to intervene is less acute, the City may consult with additional internal and external partners to determine how to best balance the needs of individuals living encamped and community members.

If at any time City staff encounter someone in medical distress requiring immediate attention, witness violence, or believe violence to be imminent to people living in encampments, temporary shelters, or tents, staff, or community members, they will notify emergency medical, Hamilton Fire Department, or Hamilton Police Services, including members of the Hamilton Police Crisis Response Branch), to have the appropriate services dispatched. Additionally, City staff will leave the site irrespective of all procedures above, if their health and safety is currently being, or at risk of being threatened. To ensure safety of staff, the presence of Hamilton Police Services may be required while visiting the site.

K) Reporting

To provide ongoing accountability and transparency to the City's encampment response program and the implementation of its encampment protocol, communication with Council and Ward Councillors regarding the Encampment Protocol will be through monthly, ongoing Information Reports to General Issues Committee and include data and trends, operational updates, and any continuous improvement measures implemented to further efforts toward providing ongoing accountability and transparency to the City's encampment response program and the implementation of its encampment protocol. Where a Ward Councillor requests information regarding a specific encampment site within their ward, Housing Focused Street Outreach will provide an update as to whether the encampment has been deemed to be within a prohibited area. Reporting on the status of outreach or enforcement activities will be limited to the monthly Council reports.

L) Communicating Protocol to Residents of Encampments

An engagement strategy has been developed to update unsheltered individuals living in encampments about the Protocol as well as to communicate expectations of places within the City where encampments, temporary shelters, or tents can be erected.

The following approaches will be taken to build understanding of the Protocol:

- Housing Focused Street Outreach workers will have an information sheet outlining expectations of the Protocol, to be shared with unsheltered individuals when staff visit an encampment. Additionally, outreach staff will collaborate with individuals to understand their needs and choices in order to

identify suitable locations (compliant sites) within the City where the individual can set up a temporary shelter or tent.

- Information sheets will also be shared with external frontline service providers who manage drop-ins, emergency shelters, and other related services and programs in the community, which can be posted in their locations and also communicated to staff throughout these organizations.
- City partners who also engage in frontline response, i.e., Parks Section and Municipal Law Enforcement, will also be provided information sheets to share with unsheltered individuals within the City, and community partners upon request.
- The City will post the Encampment Protocol and information sheet on the City's website for public access.

Heegsma et al
Appellants (Applicants)

-and-

CITY of HAMILTON
Respondent (Respondent)

Court File No.COA-25-CV-0166

Ontario
Court of Appeal

APPEAL BOOK - VOLUME 2

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