TO: Chair and Members  
Economic Development and  
Planning Committee  
WARD(S) AFFECTED: CITY WIDE

COMMITTEE DATE: February 16, 2010

SUBJECT/REPORT NO:  
Comprehensive Review of the Sign By-law (PED05172(g)) (City Wide)  
(Outstanding Business List Item)

SUBMITTED BY:  
Tim McCabe  
General Manager  
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Department

PREPARED BY:  
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SIGNATURE:

RECOMMENDATION:

(a) That the following changes to the City’s approach to dealing with the signs be approved:

i) To address concerns of the agricultural community, for lands designated Agricultural or Rural in the City’s Official Plan (non-settlement regulations):

- that A-frame signs (to a maximum of 0.48 m²) be allowed on road allowance and not require a permit
- that reactive enforcement of the sign by-law in rural communities be endorsed, provided that such signs do not in any way constitute a safety hazard or visual obstruction to the travelling public

ii) To provide for more effective administration and enforcement:

- update various terms, wording and definitions to clarify the by-law intent
- incorporate Schedules A, B and C into the main body of the by-law

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Values: Honesty, Accountability, Innovation, Leadership, Respect, Excellence, Teamwork
- include signs advertising “new commercial developments” (Construction Information Signs) into the ground sign section of the by-law, and require a permit for these signs
- define “brand” type signs in the by-law
- permit third party advertising on ground signs and wall signs (except electronic signs) to a maximum amount of 25% of the sign surface.

iii) To address the increased use of corrugated plastic signs:

- establish a “Corrugated Plastic Sign” category in the by-law with a maximum allowed size of 2.2 m².

iv) To address concerns regarding the regulation of mobile signs:

- increase the number of businesses (tenants) allowed to display on a sign during the permit period (i.e. different tenant on each side or more than one tenant on a single side) as well as allowing a change in tenant during the permit period
- remove the 10 m separation requirement between a mobile and ground sign
- remove the colour restrictions on lettering and business logo size limits.

v) To address concerns about enforcement of banners:

- allow only one banner per building face and not require a permit for banners less than 1 m².

vi) To further regulate posting across the City:

- require a 200 m separation between posters advertising the same activity or event
- allow only one poster per post/utility pole and require that posters be of biodegradable material for ease of removal.

(b) That the amending by-law attached as Appendix “C” to report PED05172(g) which is in a form satisfactory to the City Solicitor, and which repeals and replaces Sign By-law 06-243 with a by-law that incorporates the changes set out in recommendation (a) be enacted.

(c) That the amending by-law attached as Appendix “D” to report PED05172(g) which is in a form satisfactory to the City Solicitor, and which repeals and replaces Schedule 26 (Mobile Sign Leasing or Renting) of the Licensing By-law No. 07-170 be enacted.

(d) That a $125 yearly fee per location per property be established for a "Corrugated Plastic Sign" permit and added to the 2010 User Fees and Charges By-law when the By-law is enacted by City Council upon completion of the budget process.
(e) That staff be directed to develop a kiosk pilot program for poster locations in consultation with the Westdale, International Village and Downtown Business Improvement Areas, Public Works and the Wards 1 and 2 City Councillors and report back with a recommended plan to the Economic Development and Planning Committee by August 2010.

(f) That the Item “Review of the City Sign By-law”, be identified as completed and removed from the Economic Development and Planning Committee’s Outstanding Business List.

**EXECUTIVE SUMMARY**

On September 22, 2009, the Economic Development and Planning Committee held a public meeting regarding the comprehensive review and proposed amendments to the City’s Sign By-law. Staff was directed to conduct further consultation and to seek a thirty (30) day public input period regarding the proposed changes to the Sign By-law.

In addition to receiving comments at the meeting from Committee members, the public, the sign industry, the agricultural community and other interested parties, staff further consulted with the following organizations/associations:

- Hamilton Agricultural and Rural Affairs Advisory Committee
- Hamilton Association of Business Improvement Areas (HABIA);
- Hamilton Chamber of Commerce;
- Hamilton-Halton Home Builders Association (HHHBA);
- Licenced mobile sign companies; and,
- Realtors’ Association of Hamilton-Burlington.

Based on the feedback received, some of the initial recommendations concerning mobile signs have been removed; a new sign type for “corrugated plastic signs” is being recommended and a different approach to regulating signs in rural areas is being recommended.

*Alternatives for Consideration – Not Applicable*

**FINANCIAL / STAFFING / LEGAL IMPLICATIONS** (for Recommendation(s) only)

**Financial:** The creation of a “Corrugated Plastic Sign” sign category (as used often by car dealerships), with a yearly permit fee of $125 per sign location on a property could result in additional revenues in the order of $25,000 annually.

**Staffing:** N/A
Legal: Enacting a revised Sign By-law will require that Schedule 26 (Mobile Sign Leasing or Renting) of the Licensing By-law No. 07-170 also be amended to ensure that language and definitions are consistent between the Sign By-law and the Licensing By-law. Also, as recommended by Risk Management, the proof of insurance requirement should be removed from Schedule 26 of the Licensing By-law as it is the responsibility of a business owner to carry insurance, and not the City’s responsibility.

HISTORICAL BACKGROUND (Chronology of events)

On September 22, 2009 a Public Meeting regarding the comprehensive review and proposed recommendations to amend the City’s Sign By-law was held. The purpose of the meeting was to seek feedback from members of the public, the sign industry, the agricultural community and other interested parties regarding the proposed changes to the City’s Sign By-law 06-243. In Report PED05172(f) “Comprehensive Review of the Sign By-law”, which is attached as Appendix “A” to this report, staff proposed numerous changes regarding the existing by-law.

A presentation was provided by staff and the consultant, Martin Rendl, outlining the results of the comprehensive review and the proposed changes to the sign by-law. Following the presentation, eleven (11) delegations addressed Committee with concerns about the current sign by-law and the recommended changes. The comments are detailed in the Committee minutes, but were mainly about signs in rural areas, mobile signs, permit fees, posters, banners, lack of consultation and enforcement activities. Based on the feedback received at this meeting, staff was directed to conduct further consultation and report back.

A thirty (30) day public comment period was provided through November and December 2009, and advertised in the Hamilton Spectator. Only two responses were received. In addition, staff attended meetings with several organizations and associations in order to review and seek input regarding the changes to the sign by-law, listed in the “Relevant Consultation” section of this Report.

POLICY IMPLICATIONS

The sign by-law was initially passed in 2006 and came into effect in February 2007, and at that time, staff were directed to focus on education rather then enforcement. The Community Based By-Law Enforcement Strategy endorsed by City Council in November 2008, identified the Sign By-law as one of the “Top Priorities” of the Licensing and Permits team, such that illegal signs are now subject to both regular proactive enforcement and (reactive response to complaints) on a daily basis, as well as periodic proactive blitzes of “hotspots”. This report includes recommendations which provide for more effective administration and enforcement of the By-law. Enforcement efforts will be much more effective and consistent in such areas as charging inspection
fees and requesting “show cause” hearing before the Licensing Tribunal for licensed mobile sign businesses who chronically violate the By-law.

RELEVANT CONSULTATION

In addition to Legal Services, Public Works, Building and Community Services, the following external organizations/associations were consulted:

– Hamilton Agricultural and Rural Affairs Advisory Committee
– Hamilton Association of Business Improvement Areas (HABIA);
– Hamilton Chamber of Commerce;
– Hamilton-Halton Home Builders Association (HHHBA);
– Licenced mobile sign companies; and,
– Realtors’ Association of Hamilton-Burlington.

ANALYSIS / RATIONALE FOR RECOMMENDATION

(include Performance Measurement/Benchmarking Data, if applicable)

At the September 22, 2009 the following concerns were expressed regarding the regulation of signs in rural areas such as the allowed size of A-frame signs; the need to treat signs in rural/agricultural areas differently to ensure Agricultural Societies and farmers can advertise appropriately; the need to use more discretion in enforcing in rural areas, and a concern regarding lack of consultation with that Community. Staff met with the Agricultural and Rural Affairs Advisory Committee (ARAAC) to discuss the regulation of signs in rural areas. Attached as Appendix “B” to this Report is a copy of a letter from the ARAAC supporting the changes now being recommended for rural areas.

The Hamilton Chamber of Commerce and the Realtors’ Association of Hamilton-Burlington have no specific concerns with the changes to the by-law.

Staff met again met with the representatives of licensed mobile sign companies and they continue to have concerns about the proposed permit time changes, permit fee changes, permit process and site plan process. The following is a summary of the mobile sign issues identified at the public meeting and the response/recommendation to each:

1. **Permit Time** – Increasing the permit period from 28 to 45 days for mobile signs was viewed by some as being too lengthy and would lead to an abundance of signs. Rules regarding how long each business on a multiple tenant property can legally advertise are seen as too restrictive.
Response: staff had initially recommended increasing the permit period to 45 days and removing the 14-day hiatus period. However, based on feedback it is recommended that the sign permit period remain as is currently in the by-law (maximum 28 days). Staff recommend other changes to simplify the By-law such as removing the 10 metres distance requirement of a mobile sign from a ground sign, and allowing an increase in the number of businesses (tenants) allowed to display on a sign during the permit period as well as allowing a change in tenant during the permit period.

2. Permit Process – Concerns were expressed that the permit process is too cumbersome and time-consuming. No specific examples were provided but one speaker indicated that both Burlington and Milton are more streamlined.

Response: Efforts to improve the permit process will be taken into consideration. Other municipalities have different enforcement practices and requirements under their by-laws and therefore their process and fees may be quite different.

3. Permit Fee - Concerns were expressed regarding permit fees, and the recommended increase from $100 to $150.

Response: The recommendation to increase permit fees from $100 to $150 was based on extending the allowed permit time from a maximum 28 days to 45 days. However, as the recommendation is to retain the current 28 day maximum, the permit fees should remain the same.

4. Site Plan – Complaints regarding the requirement of submitting site plan(s) when applying for a sign permit.

Response: A site plan (sign location plan) is required for properties with multiple tenants, and this is consistent with the practice of most municipalities. However, staff are working to simplify the process by establishing pre-approved sign locations and developing a master list for commercial plaza complexes with three (3) or more tenants to provide pre-approval for on-site sign locations.

5. Permit Length for Community Events – A suggestion to reduce fee permit for a shorter time frame for community events (reduce from 45-day period to a 15-day period).

Response: No change is being recommended to reduce the length of the permit period for consistent application of the By-law.

The remaining list of concerns deals with other aspects of the by-law such as: the separation distance between signs; flexible signs in car dealerships; posterling; banners;
and, sign content. The following is a summary of the issue and the response/recommendation to each:

1. **Separation Distance** – Committee Members were concerned with the recommendation to remove the 15 metre separation requirement between the residential property line and the placement of a mobile sign.

   **Response:** The current recommendations no longer include removing the separation distance.

2. **Car Dealership Signs/Flexible Signs** – It was suggested that corrugated plastic signs (as often used in car dealerships) should be allowed in the By-law.

   **Response:** A new category “Corrugated Plastic Sign” is being recommended to be included in the Temporary Sign Section of the By-law, requiring an annual permit, a maximum size limit of 2.2m², and a yearly permit fee of $125 per location on the property (i.e. if property owner wishes to place signs at four locations on the property, four permits would be required).

3. **Posting** - Should have time limits for placement of posters, both pre-event and for removal after the event.

   **Response:** Time limits currently exist in by-law. Public Works is responsible for the removal of such posters, but they often have other more pressing priorities which do not allow consistent removal efforts. Staff are trying to establish enforcement practices to be able to recover some of costs through By-law charges in order for Public Works to establish an appropriate level of service in removing posters. As per Report PED05172(f), staff continue to recommend a 200m separation requirement between posters advertising the same event; allowing only one poster per utility pole and, requiring that posters be of biodegradable material for ease of removal.

4. **Banner Fees** - Concern with permit fees for banners.

   **Response:** There has always been a banner permit fee requirement. This will not change. The only change, as recommended in Report PED05172(f), is that banners less that 1 m² will not require a permit.

5. **Sign Content** - City cannot tell people what they can say on their signs.

   **Response:** The City only regulates content relating to third party advertising. Complaints concerning inappropriate content are regulated by the Federal Government. Staff is also recommending the removal of colour restrictions on lettering and business logo size limits.
6. **School Signs** - Whether or not to increase the amount of the actual sign which can be used for changeable letters and messages, as this is a public service.

   **Response:** Recommending no change.

Staff met with the Hamilton-Halton Homebuilders Builder’s Association (HHHBA) to discuss including “construction information signs” into the ground sign section of the By-law which will allow staff to monitor and ensure that construction complies with the Ontario Building Code (OBC) with respect to structural/safety issues. HHHBA expressed that this will be an additional cost to their industry, and feel that the sign by-law is not equally enforced and that their industry in particular has been impacted by the existing by-law. They wish to see a more effective and efficient permit process. Staff is committed to work towards a more consistent approach to sign enforcement.

**Postering:**

Staff attended a Hamilton Association of Business Improvement Areas (HABIA) meeting to discuss postering and a Kiosk Pilot Project as recommended in Report PED05172(f).

Staff had previously recommended that a kiosk pilot program be implemented in 2010 in the Westdale, International Village and the Downtown Business Improvement areas. However, at the meeting it was discussed that perhaps the pilot should be expanded to include one other BIA. Staff continue to recommend a pilot in these three areas, but to also consult with HABIA for other opportunities if funding allows, and to report back before August 2010 with a recommend pilot program.

Finally, staff continue to recommend changes to provide better clarity and to strengthen the integrity of the by-law including:

- that the by-law intent be maintained but terms, wording and definitions be updated to clarify intent and/or description;
- for ease of reference and consistency of application removing Schedules A, B and C and incorporate that information into the main body of the by-law;
- define “brand” type signs in the by-law; and
- permit third party advertising on ground signs and wall signs (except electronic signs) to a maximum amount of 25% of the sign surface to allow local businesses additional opportunities to promote their service or products.

**ALTERNATIVES FOR CONSIDERATION:**

(include Financial, Staffing, Legal and Policy Implications and pros and cons for each alternative)

N/A
Vision: To be the best place in Canada to raise a child, promote innovation, engage citizens and provide diverse economic opportunities.

Values: Honest, Accountability, Innovation, Leadership, Respect, Excellence, Teamwork

**CORPORATE STRATEGIC PLAN** (Linkage to Desired End Results)

*Financial Sustainability*
- Delivery of municipal services and management capital assets/liabilities in a sustainable, innovative and cost effective manner

*Growing Our Economy*
- An improved customer service

**APPENDICES / SCHEDULES**

Appendix “A” to Report PED05172(g) - Report PED05172(f) “Comprehensive Review of the Sign By-law”
Appendix “B” to Report PED05172(g) – Letter from the Agricultural and Rural Affairs Advisory Committee
Appendix “C” to Report PED05172(g) – New Sign By-law
Appendix “D” to Report PED05172(g) – Schedule 26 (Mobile Sign Leasing or Renting) of Licensing Code By-law No. 07-170

MH/VO/JX/dt
Attachs. (4)
SUBJECT: Comprehensive Review of the Sign By-law (PED05172(f)) (City Wide)

RECOMMENDATION:

a) That the following changes to the City of Hamilton’s Sign By-law 06-243 be approved:

i) To address industry concerns regarding the regulation of mobile signs:

- increase the permit period from 28 to 45 days and increase the fee from $100.00 to $150.00 per permit period for a net lower daily rate for a mobile sign permit;
- remove the 14-day hiatus period and allow back-to-back sign permits (up to a maximum of five (5) permits per property per year);
- increase the number of businesses (property tenants) allowed to display on a sign during the permit period (i.e. different tenant on each side or more than one tenant on a single side) as well as allowing a change in tenant during the permit period;
- remove the 10 metre separation requirement between a mobile and ground sign;
- remove the 15 metre separation from a residential property and increase the separation distance for a side property line from 3 metres to 5 metres;
- remove colour restriction on lettering and business logo size limits; and,
- staff to develop approved master list for commercial plaza complexes with three (3) or more tenants to provide pre-approval for on-site sign locations.
ii) To address concerns of agricultural businesses; for lands designated Agricultural or Rural in the City’s Official Plan (non-settlement regulations); allow A-frame signs on the road allowance in rural areas provided that such signs do not in any way constitute a safety hazard or visual obstruction to the travelling public.

iii) To provide for more effective administration and enforcement:

- update various terms, wording and definitions to clarify the by-law intent;
- incorporate Schedules A, B and C into the main body of the by-law;
- include signs advertising “new commercial development” (Construction Information Signs) into the ground sign section of the by-law, and require a permit for these signs; and,
- permit 3rd party advertising on ground signs and wall signs (except electronic signs) to a maximum amount of 25% of the sign surface.

iv) To address concerns about enforcement of banners:

- increase the permit period from 28 to 45 days;
- not require a permit for banners less than 1 m²;
- allow only one banner per building face; and,
- define “brand” type signs in the by-law.

v) To further restrict posting across the City of Hamilton:

- require a 200 metre separation between posters advertising the same activity or event;
- allow only one poster per post/utility pole; and,
- require that posters be of biodegradable material for ease of removal.

b) That staff be directed to prepare an amending Sign By-law for presentation to City Council in a form satisfactory to the City Solicitor that incorporates By-law changes set out in recommendation (a) above.

c) That staff be directed to develop a kiosk pilot program for posting locations in consultation with the Westdale, International Village and Downtown Business Improvement Areas and the Wards 1 and 2 City Councillors for implementation in 2010 and report back with a recommended plan to the Economic Development and Planning Committee by February 2010.

d) That Report PED05172(f), including Appendix "A", Hamilton Sign By-law report, prepared by Martin Rendl Associates, be received.

e) That the outstanding business item relating to the review of the City Sign By-law be identified as complete and removed from the Economic Development and Planning Committee’s Outstanding Business List.

Tim McCabe
EXECUTIVE SUMMARY:

On August 9, 2006, City Council enacted the Sign By-law 06-243, which came into force and effect on February 1, 2007. Council also directed staff to report back to Committee by June 2008 “regarding the application of the new Sign By-law including any recommendations for changes as may be applicable at that time”.

On April 17, 2007, the Economic Development and Planning Committee discussed enforcement of the Sign By-law as it relates to postering and further directed staff:

- “to bring back a comprehensive report on the timing and implementation, both interim and long-term, of the Sign By-law, including, but not limited to, the placement of posters, the use of hydro poles, the placement and costs of poster kiosks, and best practices from other communities”;

- “to review a potential amendment to the by-law as part of the overall planned By-law review, to address exemptions from the by-law for humanitarian reasons, when an issue is endorsed by Hamilton Police Services”; and,

- “to research and report back on a new “yellow alert” program, which would inform the public of missing persons and other humanitarian issues, and would be a partnership between the City of Hamilton (City), Hamilton Police Services and the local business community”.

Staff provided status reports in 2008 through Reports PED05172(d) and PED05172(e), and Council extended the June 2008 deadline to allow for stakeholder consultation and the conclusion of a pending Court application on the Sign By-law.

This report fulfills the 2006 directive to report back with comprehensive recommendations on the overall effectiveness of the new Sign By-law, as well as the April 17, 2007 directives related to postering.

In preparing this report, staff undertook consultation with the sign industry and the agricultural community. The following are general stakeholder concerns about the By-law as it now stands:

a. the regulations related to mobile signs are too restrictive;
b. a perceived inconsistent enforcement between mobile franchise signs and those privately owned by individual businesses;
c. mobile sign permit fees are too costly; and,
d. while there are exemptions for agriculture signs, the agricultural community feels the City’s by-law is still overly restrictive and assumed they were completely exempt from the by-law requirements.
Martin Rendl Associates, who assisted in developing the City’s Sign By-law in 2005, was again retained to benchmark the City’s Sign By-law and fees with the rest of the Province of Ontario.

It is concluded that the City’s Sign By-law is generally in-line with the rest of the Province; however, staff believes the By-law can be improved and the recommendations contained herein address many of the stakeholder concerns, and provide for a more reasonable and effective Sign By-law.

**BACKGROUND:**

In 2005, Martin Rendl Associates was hired to conduct a Sign Study and provide the City with a harmonized Sign By-law and, in December 2005, a “Proposals Report” was submitted to Council. At that time, Council directed staff to conduct another series of public consultation sessions, which were conducted during January and February of 2006. In total, fourteen (14) public consultation sessions were held, as were numerous meetings with individual stakeholders and organizations including:

- Hamilton Association of Business Improvement Areas (HABIA);
- Hamilton-Halton Home Builders Association (HHHBA);
- Hamilton Chamber of Commerce;
- Stoney Creek Chamber of Commerce;
- Ancaster Community Council;
- Hamilton-Wentworth Portable Sign Association;
- Realtors’ Association of Hamilton-Burlington; and,
- Advisory Committee for Persons with Disabilities.

Following the completion of the public consultation sessions, the original draft of the Hamilton Sign By-law was revised and an interim enforcement strategy was developed. On August 8, 2006, Committee of the Whole approved the “Sign Study and By-law - Final Report” (PED05172(b)). The “Final Report” and By-law addressed all aspects of signage, including but not limited to:

- **Portable/Temporary Signs**
  - Contractors Signs  - Mobile Signs  - A-frame Signs
  - Real Estate Signs  - Inflatable Signs  - Posters
  - New Home Builder Signs  - Election Signs  - Banners
  - Tourist Oriented Directional Signage

- **Permanent Signs on Private Property**
  - Ground Signs  - Wall Signs  - Roof Signs
  - Signs on City Property  - Billboards  - Projecting Signs

A copy of the City’s current Sign By-law is attached to this report as Appendix “B”.

A copy of the City’s current Sign By-law is attached to this report as Appendix “B”.
While the harmonized Sign By-law came into force on February 1, 2007, at the direction of the Planning and Economic Development Committee, enforcement was limited to education, at least until the 2008 Budget process.

Due to the fact that staff were originally directed to focus on “education” and also given that a Judicial Order to establish “set fines” respecting the regulations under the City’s Sign By-law was not issued by the Regional Senior Justice until March of 2008, enforcement of the by-law consisted of, until the past year or so, education, warnings, persuasion and, in cases where all other remedies failed, the impounding of illegal signs on public rights-of-way.

Further, before reporting with comprehensive recommendations to improve the effectiveness of the by-law, staff was awaiting the outcome of a Court challenge to the by-law. As a result, there was, until recently, insufficient information available to present a comprehensive report.

In preparing this report, staff consulted with key internal staff, sign industry stakeholders, and the agricultural community. Staff again retained Martin Rendl Associates to conduct a benchmarking exercise of Sign By-law provisions and permit fees, to provide a perspective on how other municipalities deal with poster advertising, video and electronic messaging, agricultural signage and an overall comparative summary of the City’s Sign By-law with other municipalities. Martin Rendl Associates findings form the basis of most of the staff recommendations and staff comments throughout this report. A copy of the complete report, dated August 2009, is attached as Appendix “A” to this report.

Staff has completed a comprehensive review of the Sign By-law and the key issue areas and recommended actions are summarized below.

1) Overview of Sign By-law Enforcement Activity

When the new Sign By-law was passed in 2006, staff were directed to focus on education rather than enforcement. However, during the 2008 budget deliberations an $110,000 shortfall in sign permit revenue was identified in the 2008 budget estimates. Also, in developing the new “Community Based Enforcement Strategy”, it became readily apparent that there was a need for increased enforcement of the Sign By-law as many Councillors and residents expressed concern about the proliferation of signs across the City.

The new enforcement priority framework approved by City Council last Fall identified the Sign By-law as one of the “top priorities” of the Licensing and Permits Team. Violations of the Sign By-law are now subject to both regular proactive and reactive enforcement on a daily basis, as well as periodic, proactive blitzes of “hotspots”. As a result of Municipal Law Enforcement’s restructuring to a specialized team based approach to By-law Enforcement on July 1, 2008, there are now six (6) Officers regularly enforcing the Sign By-law. Also, the Special Enforcement Team can enforce the Sign By-law during multi-disciplinary investigations (i.e. Multi-Agency Task Force) and staff, in their
proactive business licensing efforts, are enforcing the Sign By-law as well as enforcing business licensing when identifying illegal signs.

The following is evidence that enforcement efforts are having an effect:

- Over 138 charges laid in 2008/2009 (to-date) are currently moving through the Court system and hundreds of posters and illegal ground signs have been removed by staff as well as enforcement of sign issues relating to banners, wall signs, electronic signs and home occupation signs.

- The number of sign permits issued has increased from 1,029 in 2008 (86/month average) to 1,062 for the first 7.5 months of 2009 (142/month average). As a result, a significant, positive revenue variance ($30,000 to $40,000) is expected by year-end.

- In July 2009, staff conducted an enforcement blitz along Upper James Street which resulted in over 90 Orders to Comply and charges being issued. While almost 75% compliance was achieved, it is not yet known if that level of compliance will be sustained over the longer term. Similar blitzes are being planned for this area as well as other key “problem areas” of the City.

In summary, Sign By-law enforcement has been assigned a higher priority as it relates directly to the City’s strategic “image” theme, and there is documented evidence of staff efforts to achieve compliance though charges laid, more permits issued and a healthy revenue forecast.

2) Court Decision respecting a Challenge to the By-law

As reported in Report PED05172(e), there was a Court application (Langadinos v. City of Hamilton) seeking to quash the Hamilton Sign By-law. Legal Services advised that on November 24, 2008, the Honourable Mr. Justice Ramsay dismissed the remaining aspects of the application relating to Hamilton By-law No. 06-243. Accordingly, this means that the application in its entirety was dismissed and By-law No. 06-243 stands.

3) Comparative Review of Hamilton’s Sign By-law to that of Other Municipalities

Since the Sign By-law came into effect in February 2007, there have been numerous industry complaints and concerns about the mobile sign restrictions and the costs of the sign permits. However, Hamilton’s approach to regulating signs is generally in-line with the rest of the Province. Martin Rendl Associates compared the City’s By-law to fourteen (14) other municipalities with a population of 150,000, and concludes that:

“The Hamilton Sign By-law contains regulations for the major sign types usually found in municipalities and controlled through the Sign By-laws of the municipalities reviewed. Hamilton’s sign standards and approaches to sign issues are comparable with other Sign By-laws. Other Sign By-laws do contain standards that are both more and less
restrictive than those found in By-law 06-243 for the same types of signs. Such differences are not shortcomings but reflect the different priorities and expectations regarding signs of other communities and municipal councils”.

Rendl also states that the City’s By-law “contains similar provisions with respect to matters of By-law administration and enforcement” and it “is consistent with the legal principles and cases applicable to municipal Sign By-laws.”

A full comparative overview is contained in Martin Rendl Associates report attached as Appendix “A” to this report.

4) Benchmarking of Fees with Other Ontario Municipalities

Martin Rendl Associates benchmarked Hamilton’s sign permit fees against twelve (12) other municipalities (with populations > 150,000) which included Toronto, Mississauga, Ottawa, Brampton, London, Markham, Vaughan, Windsor, Oakville, Burlington, Richmond Hill and Sudbury. Rendl states that municipalities generally categorize signs as either permanent or temporary, and while it is difficult to make a direct comparison because of all of the variables, most municipalities take one or more of the following approaches to sign permit fees:

- flat permit fee for permanent signs;
- minimum permit fee plus additional fee based on sign area;
- different fees based on sign type; and,
- for temporary signs, permit fee for a defined display period.

Hamilton’s fee structure breaks permanent signs into such categories as ground signs, new home development ground signs, wall signs, canopy, billboards etc. The fee for ground signs is based on square metres of the sign face – if less than 2.5 m² the current fee is $155.00; for signs greater than 2.5 m² and less than 4.0 m² the fee is $259.00; and for signs greater than 4.0 m² the fee is $517.00. Mobile signs, banners, sidewalk signs, inflatable signs, portable new home development signs etc, are considered to be temporary signs and the fee structure varies related to the number of days that the sign is required (e.g. a sidewalk sign permit fee is $75.00 for the year while a banner is $75.00 for 28 consecutive days) rather than the size of the sign.

Mobile sign companies have expressed the concern that that Hamilton’s fees for mobile signs are too high. However, Rendl concludes that “Hamilton’s sign permit fees fall within the range of fees applied in other municipalities”. A full fee comparison/analysis is contained in Martin Rendl Associates report attached as Appendix “A” to this report.

While Hamilton’s sign permit fees are in-line with the rest of the Province, they still do not provide for full cost recovery of administrative and enforcement costs. Rendl advises that no municipalities operate on a full cost recovery approach because the amount of work required to administer and enforce a Sign By-law would make the associated sign permit fees cost prohibitive.
5) Stakeholder Consultation

In addition to regular consulting with key City staff (i.e. Building, Recreation, Parks, Roads, Traffic, Planning, Tourism and Legal) the sign industry and the agricultural community were also consulted as part of this review of Hamilton’s Sign By-law.

a) Mobile Sign Industry

Staff met with representatives of the mobile sign industry on October 7, 2008. The general industry concerns are that the regulations related to mobile signs are too restrictive; inconsistent enforcement effort between mobile sign franchise signs and those privately owned by individual businesses; and the mobile sign permit fees are too costly.

With respect to the concern of inconsistent enforcement effort between mobile sign franchise signs and those privately owned by individual businesses, staff can report that a majority of mobile signs on private property belong to a small number of companies (six (6) or seven (7) companies). Therefore, initial efforts were towards educating sign companies that also are licensed under the Licensing Code. More recent efforts however, are at educating and enforcing mobile signs owned by private businesses.

After a complete review and internal consultation to address the industry concerns, staff recommends a number of Sign By-law amendments to allow more flexibility for businesses in the use of mobile signs. These include:

- increase the permit period from 28 to 45 days and increase the fee from $100.00 to $150.00 per permit period for a net lower daily rate for a mobile sign permit;
- remove the 14-day hiatus period and allow back-to-back sign permits (up to a maximum of five (5) permits per property per year);
- increase the number of businesses (property tenants) allowed to display on a sign during the permit period (i.e. a different tenant on each side or more than one tenant on a single side) as well as being able to change the tenant during the permit period;
- remove the 10 metre separation requirement between a mobile and a ground sign;
- remove the 15 metre separation from a residential property and increase the separation distance for a side property line from 3 metres to 5 metres; and,
- remove colour restriction on lettering and business logo size limits.

Staff will also be developing a process that will result in an approved master list for commercial plaza complexes with three (3) or more tenants to provide pre-approval for on-site sign location options.

b) Agricultural Community

The agricultural communities have expressed concern that the Sign By-law restrictions affect their ability to sell produce and thus impact their livelihood. The agricultural community was under the impression that they were fully exempt from the Sign By-law.

While there are a number of exemptions for agricultural signs, enforcement staff have encountered a number of common issues in the rural areas such as the placement of
mobile and A-frame signs illegally on City road allowance; signs obstructing views and attached to utility poles; business suppliers to the agricultural community expressing the opinion that they too are “agricultural’ and, therefore, exempt from the regulations, etc.

Martin Rendl Associates examined other Municipal approaches to agricultural signage and states “such signs are permitted in recognition that rural businesses are more difficult to locate due to distances and the lack of local way finding guides”, but although permitted they need to conform to “specific standards applicable to such signs in terms of location and size”.

Rendl further states that “the City of Ottawa has the largest agricultural community of all major Canadian cities” and they amended their by-law to provide for four (4) types of signs to assist in locating farm based businesses as follows:

- permanent directional signs in the right-of-way (i.e., TODS/trailblazer signs);
- permanent off-site directional signs on private property;
- greater flexibility for temporary signs on road allowance; and,
- greater flexibility for temporary signs on private property.

A complete overview of Ottawa’s approach to regulating signs in agricultural areas is found in Martin Rendl Associates report attached as Appendix “A” to this report.

Staff consulted with members of the agricultural community in the Fall of 2008, and has had a number of meetings with the Ward 11 and 14 Councillors. Hamilton’s By-law already provides the same exemptions/options as Ottawa does except for allowing temporary signs on road allowances. After due consideration, staff recommend that the Hamilton Sign By-law 06-243 be amended to allow A-frame signs on road allowance in rural areas provided that such signs do not in any way constitute a safety hazard or visual obstruction to the travelling public. Restrictions such as the size of signs, placement on/against utility poles, setbacks from the roadway and sight line obstructions will continue to apply and be enforced. It should be noted that these changes will apply only to businesses located on lands in the City’s Official Plan (non-settlement areas) designated Agricultural or Rural.

It is also important to note that the Province’s Tourism Oriented Destination Signs (TODS) and trailblazer signs can also be utilized to provide direction in agricultural areas. These are the blue information signs placed on major highways/arterial roads directing the public to historical sites, parks and points of interest across the City. A secondary option is the trailblazer or the phantom trailblazing signs which are smaller signs affixed to utility poles and maintained by the Municipality. This program is managed by the City’s Tourism Division which has an annual fee of $70.00. However, while some have opted to take advantage of this program, staff has been advised that the agricultural community is generally not willing to pay the associated fees for these signs.

6) Changes to provide more effective administration/enforcement of Sign By-law
Staff is also recommending a number of changes to provide better clarity and to strengthen the integrity of the by-law. These include the following:

- that the by-law intent be maintained but terms, wording and definitions be updated to clarify intent and/or description;
- for ease of reference and consistency of application remove Schedules A, B and C and incorporate that information into the main body of the by-law;
- include “construction information signs” advertising new commercial development into the ground sign section of the by-law, and require a permit for these signs, as these signs are not currently provided for in the by-law and are therefore difficult to enforce when structural/safety issues arise; and,
- permit third party advertising on ground signs and wall signs (except electronic signs) to a maximum amount of 25% of the sign surface. Presently the only third party advertising permitted is on billboards and through poster ing. By increasing the options available for third party advertising, local businesses will have additional opportunities to promote their service or products.

7) Banners

Concerns have been received from business owners about enforcement of banners, particularly associated with outdoor patios. To address those concerns, staff recommends that the Sign By-law be amended as follows:

- banner with a sign area less than 1 m² will be subject to the requirements of the by-law but will not require a permit (banners greater than 1 m² will require a permit);
- to increase the permit period from 28 to 45 days;
- allow only one banner per building face; and,
- create and define “brand” type signs to cover items such as umbrellas, decals or etchings (this is limited to products available at the location).

8) Postering

As a result of challenges in other Ontario cities, the Courts have ruled that municipalities may regulate but may not prohibit poster ing. Currently, Hamilton regulates poster ing through the Sign By-law by limiting the amount of time posters are allowed to be in place, how they are to be attached to poles and by specifying the size and type of material which may be used.

Martin Rendl Associates conducted a review of the Sign By-laws of the fourteen (14) Ontario municipalities (with populations > 150,000) and advises that three (3) municipalities ban posters and eleven (11) regulate posters. Of the municipalities that regulate poster ing, most specify criteria for the amount of time allowed, size, material and attachment method as Hamilton currently does. Rendl concludes that “Hamilton’s approach to dealing with poster ing in By-law 06-243 is consistent with the approach of these other municipalities…. and is consistent with the principles of the Supreme Court of Canada referred to in the Ramsden case”.


Nonetheless, there are many who feel that the current restrictions are not enough to curtail postering in some areas of the City. Therefore, staff recommends that additional restrictions on postering be included in the Sign By-law as follows:

- require a 200 metre separation between posters advertising an activity/event;
- allow only one poster per post/utility pole; and,
- require that posters be of biodegradable material for ease of removal.

With respect to the April 17, 2007 Economic Development and Planning Committee directives related to postering, Rendl reports that, to its knowledge, no other municipality allows for exemptions for “humanitarian” reasons, but that such an exemption could be allowed as long as the other by-law requirements are in force. As efforts are at limiting the amount of postering throughout the City, staff does not recommend any exemptions for “humanitarian” reasons, unless the criteria is clearly defined and limited.

The Hamilton Police Service was consulted respecting the development of a new “yellow alert” program, but staff were advised that this is a Province-wide Policing initiative and that postering would have limited benefit because the AMBER Alert is a short-term operation used to quickly notify the public of abducted children who are in imminent danger. The Ontario AMBER Alert warning system immediately broadcasts descriptions of kidnap victims, their abductors, and suspect vehicles using highway changeable message signs, radio, television and cable.

With respect to the use of kiosks to allow postering in key areas, as part of the 2005 budget, $60,000.00 was approved in Public Works' Special Projects Account No. 4240503507 for the design, fabrication and installation of up to six (6) information kiosks to be placed where improvements in the Downtown have already been implemented (i.e. King, Bay, Hess, etc.). An annual maintenance cost component was also approved in the amount of $3,224.00 per kiosk. Since 2005, monies have been approved in the Downtown and Community Renewal Division's Capital Budget for information kiosks within the Downtown, community downtowns and Business Improvement Areas. In total there is $310,000.00 allocated towards the design, fabrication and installation of information kiosks within the aforementioned areas. Staff has estimated that each kiosk would cost approximately $5,000.00 for fabrication and installation, however, there are no monies allocated for the Public Works Department to maintain the kiosks apart from the $3,224.00 per kiosk approved in 2005.

Although there are additional funds to install more than six (6) kiosks, staff is still recommending a pilot project. The plan is to allow postering on strategically placed kiosks in key areas of the City and to prohibit postering completely within a defined radius of each kiosk. While other cities have utilized kiosks successfully, a pilot project is deemed to be prudent in order to obtain first-hand experience with the placement of kiosks and the postering prohibition radius and a more accurate cost estimate for a permanent City-wide initiative.

To date, the kiosks have been designed by the Downtown and Community Renewal Division. Approval has also been provided to use up to a maximum of $35,000.00 from
the $310,000.00 capital budget for maintenance of the kiosks for the purpose of a pilot project. Staff is recommending that two (2) or more pilot areas be identified. The two (2) primary areas under consideration are Westdale (because of the higher volume of poster ing due to the proximity to McMaster University) and all or part of the Downtown. Although, other areas may be added to the pilot program. Staff will consult with the affected Business Improvement Areas, Ward Councillors and Public Works and report back to the Economic Development and Planning Committee in January 2010 with a recommended program to be implemented in 2010.

9) Electronic Message Display Signs

Currently, Hamilton’s Sign By-law prohibits flashing or animated signs and defines an animated sign as “a video screen or any flashing, kinetic, or illusionary motion of any part of a sign and includes a rotating sign, but does not include an electronic message display”. Staff are concerned that electronic message display signs are becoming more innovative and more widely used as technology advances. Accordingly, Martin Rendl Associates was also asked to provide a current perspective on the issue as well as an overview of other municipal approaches to regulating this type of sign. The full overview of this issue is included in Martin Rendl Associates report attached as Appendix “A” to this report.

Rendl advises that municipalities vary in their approach to regulating animated signs ranging from complete prohibition to regulating the size, location and operation of such signs. However, it is reported that with continuously advancing technology, few municipalities explicitly address this type of sign technology. He opines that “larger municipalities will experience more pressure with these electronic billboards due to the potential number of people that can be reached through this advertising”.

Rendl states that the “regulation of electronic and video displays in signs should address the same matters relevant to the regulation of conventional signs but with a specific focus on addressing the distinguishing characteristics of such signs and measures to control the associated impacts and issues”.

While the issue of electronic message display signing was reviewed as part of this comprehensive review of the Sign By-law, staff are not recommending any changes to the by-law for this type of signage at this time.

ANALYSIS/RATIONALE:

Hamilton’s Sign By-law regulations and permit fees are generally in line with the rest of the Province. The recommendations included in this report attempt to address stakeholder concerns, and are intended to improve both the effectiveness of administration and enforcement of the by-law.

ALTERNATIVES FOR CONSIDERATION:
Council could maintain status quo in the by-law but industry concerns and needed improvements in the by-law would not be addressed. This would result in the continuance of enforcement protocols that are inherently ineffective.

While it is apparent that no other Ontario municipality provides postering exemptions for humanitarian reasons, City Council could choose to define “humanitarian” criteria and to provide exemptions for such in the Sign By-law.

With respect to a kiosk pilot project, Council may direct staff to not conduct a pilot project and install all kiosks; however, monies for maintenance of the kiosks is still required as a budget enhancement for the Public Works Department.

**FINANCIAL/STAFFING/LEGAL IMPLICATIONS:**

**Financial Implications**

**Fees/Fines:** While budgeted revenues were decreased during the 2008 budget process, staff were directed to ramp up enforcement in an effort to mitigate the revenue shortfall and, since that time, sign permit sales have seen a dramatic increase from 86 to 142 per month. As a result, a positive variance of $30,000.00 to $40,000.00 is expected for 2009.

Further, as part of the 2008 Council approved Community Based Enforcement Strategy, Sign By-law enforcement is now being given a higher priority. That said, the contribution of the set fines to future revenue generation remains, as yet, unevaluated.

**Legal Implications**

The current by-law recently survived a challenge in the Courts. The recommendations included in this report address industry concerns and are intended to strengthen the integrity of the by-law and the effectiveness of enforcement.

**POLICIES AFFECTING PROPOSAL:**

N/A

**RELEVANT CONSULTATION:**

The following were consulted as part of this comprehensive review of the Sign By-law:

- the mobile sign industry;
- the agricultural community;
- Ward 1, 11 and 14 Councillors; and,
- staff (i.e. Building, Recreation, Parks, Roads, Traffic, Planning, Tourism, Legal, Downtown and Community Renewal).

**CITY STRATEGIC COMMITMENT:**
By evaluating the “Triple Bottom Line”, (community, environment, economic implications) we can make choices that create value across all three bottom lines, moving us closer to our vision for a sustainable community, and Provincial interests.

Community Well-Being is enhanced. ☑ Yes ☐ No

An efficient and effective Sign By-law promotes the City’s image and contributes to the overall safety of the community by reducing clutter and safety hazards.

Environmental Well-Being is enhanced. ☑ Yes ☐ No

An efficient and effective Sign By-law promotes the City’s image and contributes to the overall safety of the community by reducing clutter and safety hazards.

Economic Well-Being is enhanced. ☑ Yes ☐ No

Numerous sign companies have indicated that a fair, balanced and effectively enforced by-law will preserve and possibly enhance their investment in the City.

Does the option you are recommending create value across all three bottom lines? ☑ Yes ☐ No

Do the options you are recommending make Hamilton a City of choice for high performance public servants? ☑ Yes ☐ No

Approval of the recommended amendments will result in regulations that will be easier to understand by the industry and the public, and easier for staff to administer and enforce.

MBH/JX/VO/dt
Attachments. (2)
January 4, 2010

Mr. Vincent Ormond  
City of Hamilton  
Municipal Law Enforcement  
77 James Street South, Suite 400  
Hamilton, ON L8R 2K3

Dear Mr. Ormond:

On behalf of the City of Hamilton’s Agricultural and Rural Affairs Advisory Committee we are writing this letter in support of the recommended changes to the City of Hamilton Sign By-law 06-243 as presented to our committee on October 22, 2009.

This committee is an official sub-committee of the City of Hamilton Council and has a strong representation of our local agricultural and rural community. Members of our committee unanimously voted to support the changes to the comprehensive sign by-law specifically as it related to the rural agricultural community within the City of Hamilton. The staff of Municipal Law Enforcement have devoted a great deal of time and due diligence to address the concerns of the agricultural community. Our committee was very pleased that City staff addressed these issues and incorporated the recommendations into the amended sign by-law.

Once again thank you for the due diligence and respect shown to this committee and specifically the rural agricultural community by developing a fair and reasonable sign by-law that supports agricultural business in the City of Hamilton. Should you have any questions or further inquiries please do not hesitate to contact me at (905) 648-4044.

Sincerely yours,

Carl Loewith  
Chair

SC/

c.c. Joe Xamin, Planning and Economic Development Department
CITY OF HAMILTON
BY-LAW NO.

A By-Law repealing and replacing By-law No. 06-243 respecting Signs within the City of Hamilton

WHEREAS Council desires to pass a by-law respecting signs in the City of Hamilton;

AND WHEREAS Sections 8, 9 and 10 of the Municipal Act, 2001 authorize the City of Hamilton to pass by-laws necessary or desirable for municipal purposes, and in particular Paragraph 10 of Subsection 10(2) authorizes by-laws respecting signs;

AND WHEREAS subsection 8(3) of the Municipal Act, 2001 provides that a by-law under section 10 of that Act respecting a matter may regulate or prohibit, may require a person to do things, and may provide for a system of permits;

AND WHEREAS subsection 63(1) of the Municipal Act, 2001 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 Section 425 of the Municipal Act, 2001 authorizes the City of Hamilton to pass By-laws providing that a person who contravenes a By-law of the City of Hamilton passed under that Act is guilty of an offence;

AND WHEREAS the Municipal Act, 2001 further authorizes the City of Hamilton, amongst other things, to delegate its authority, to impose fees or charges on persons for services or activities provided or done by or on behalf of it, to provide for inspections and inspection orders, and to make orders to discontinue activity or to do work;

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

PART 1.0
DEFINITIONS

In this By-law:
“advertising device” means any object displayed so as to attract public attention to any goods, services, facilities or events, including but not limited to flags, banners and lights;

“Agricultural Produce Portable Sign” means a Temporary Sign that is a freestanding sign which is typically shaped like an “A” or a “T” with one or two sign faces that is intended to direct attention to the sale of agricultural produce in an agricultural zone;

“Banner” means a sign that is temporary, is capable of being readily removed and is made from cloth, plastic or a similar lightweight non-rigid material;

“Billboard” means a sign that is free standing and is supported by a structure secured to the ground and which is not supported by any building or other structure, displays copy advertising goods, products, or services not sold or offered on the property where the sign is displayed and is either single faced or double faced but does not include a Ground Sign;

“Business Improvement Area” means an area designated by the City as an improvement area under the Municipal Act, 2001;

“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;

“City” means the municipality of the City of Hamilton or the geographic area of the City of Hamilton, as the context requires;

“community organization” means a not for profit group of persons organized for the advancement of a civic, cultural, social, health, philanthropic or recreational purpose within the City;

“Construction Information Ground Sign” means a Ground Sign that identifies or provides information relating to or advertising a development or construction project;

“copy” means the graphic content of a sign surface in either permanent or changeable letter, pictorial, symbolic, or numeric form;

“Corrugated Plastic Type Sign” means a Temporary Sign that is secured to a light standard or other such structure with one or two sign faces and made of coroplast or similar material;
“Council” means the Council of the City of Hamilton;

“Director” means the Senior Director of the Parking and By-law Enforcement Division of the City’s Planning and Economic Development Department and/or his or her designate or successor;

“display” in any form includes “erect” and “locate”;

“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 that part of a sign composed of electronically controlled copy;

“frontage” means the length of the property line of any one property parallel to and along each street;

“General Manager” means the General Manager of the City’s Planning and Economic Development Department;

“grade” means the average surface elevation of the finished ground below a sign;

“Ground Sign” means a sign that is free standing and is supported by a structure secured to the ground and which is not supported by any building or other structure but does not include a Billboard;

“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;

“Inflatable Sign” means a sign that is temporary, is filled with air or gas and tethered to the ground, a vehicle or any structure and includes, but is not limited to, balloons and any other inflatable sign;

“Mobile Sign” means a sign that is temporary, 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 but does not include a Temporary Sign;

“New Home Development Portable Sign” means a Temporary Sign that is a freestanding sign which is typically shaped like an “A” or a “T” with one or two
sign faces that is intended to direct attention to the sale of new home developments;

“officer” means a Municipal Law Enforcement Officer appointed under any City by-law or any other person assigned or appointed by the Director to administer or enforce this By-law and includes a person employed by the City whose duties are to enforce this By-law;

“owner of the property” means the registered owner of the property, or the person or the person’s authorized agent in lawful control of a property;

“person” includes 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;

“Poster” means a printed notice conveying any 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 to a utility pole for the purpose of displaying Posters;

“Projecting Sign” means a Wall Sign that projects out horizontally from the wall more than 60 cm;

“property” means a parcel of land which can be legally conveyed pursuant to the provisions of the Planning Act;

“property line” means the boundary of a property;

“readograph” means that part of a sign composed of changeable letters intended to convey a temporary message and which is designed or constructed so that the copy on the sign may be easily changed and rearranged mechanically not including electronically;

“Sidewalk Sign” means a Temporary Sign that is a free-standing sign which is typically shaped like an “A” or a “T” with 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 where copy may be displayed and includes any material forming an
integral part of the background or used to differentiate the sign from the backdrop or building against which it is displayed. Where there is no border or frame or the sign is composed of individually installed letters, numerals or shapes, the sign area includes 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 kiosk” means a kiosk erected by the City in a Business Improvement Area for the purpose of displaying Posters;

“sign owner” includes any person described on the sign, whose name, address or telephone number appears on the sign, who installed the sign, who owns the property where the sign is displayed, 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 a property line that divides a property from a street;

“Temporary Sign” means an Agricultural Produce Portable Sign, Corrugated Plastic Type Sign, New Home Development Portable Sign or Sidewalk Sign but does not include a Mobile Sign;

“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;

“vacant” means a property separately assessed that does not have any building or any occupied building thereon;

“visibility triangle” means the triangular area formed within a property by the intersection of 2 street lines or of a street line and a driveway line or the projections thereof and a straight line connecting them 6.0 m from their point of intersection, as shown in Schedule A;

“Wall Sign” means a sign displayed on or against a wall of a building, or supported by or through a wall of a building;

“width” means the measurement taken at right angles to the height;
“zone” means any land use zone established in the zoning by-laws of the City and passed under the Planning Act or any predecessor or successor Act.

PART 2.0

TITLE, SCOPE AND INTENT OF SIGN BY-LAW

2.1 TITLE

This By-law may be cited as the “Hamilton Sign By-law” or the “Sign By-law”.

2.2 SCOPE

2.2.1 This By-law regulates the location, size, number, construction, alteration, repair and maintenance of all outdoor signs within the City.

2.2.2 All signs located on public and private property within the City are subject to the provisions of this By-law.

2.2.3 Signs located within the City may be subject to the provisions of by-laws in addition to this By-law, statutes or regulations, including, but not limited to: the provisions Ontario Heritage Act requiring a permit for the alteration of designated properties or properties located in a heritage conservation district; provisions of the City’s zoning by-laws such as those prohibiting signs in required landscaped areas or planting strips; and Conservation Authority or Niagara Escarpment Commission requirements.

2.2.4 This By-law does not apply to signs displayed, or permitted to be displayed by federal, provincial or municipal governments, a conservation authority or other local board as defined in the Municipal Act, 2001, including, but not limited to, signs required by a federal or provincial statute or regulation or by a municipal by-law, such as: a traffic sign; a street name sign; a permanent sign 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; a sign designating a public library, a public community centre, a public arena; a sign required by the City to inform the public of planning applications submitted under the Planning Act; a Tourism Ontario Destination sign; a Trailblazer sign and a sign displayed for the purposes of public safety or convenience.

2.2.5 Notwithstanding subsection 2.2.4, the applicable regulations under this By-law shall apply with necessary modifications for signs on City property that function as Ground Signs, Wall Signs or Projecting Signs and no permit is required under this By-law for such signs.
2.2.6 Notwithstanding subsection 2.2.4, the applicable regulations under this By-law shall apply with necessary modifications for signs displayed under a permit issued in accordance with section 34 or section 38 of the Public Transportation and Highway Improvement Act and a permit is required under this By-law for such signs.

2.3 INTENT

The purpose of this By-law is to regulate signs in the City 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;
(e) are consistent with the City’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.

PART 3.0

INTERPRETATION AND ADMINISTRATION

3.1 ADMINISTRATION

3.1.1 The Director shall be responsible for the administration and enforcement of this By-law on all public and private property within the City.

3.1.2 The Director or an officer 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.

3.2 PERMITS

3.2.1 Every person displaying:
(a) a Ground Sign;
(b) a Wall Sign;
(d) a Mobile Sign;
(e) a Banner, except for a Banner advertising a charity’s or community organization’s activities or with a sign area of less than 1 m²;
(f) a Temporary Sign, except a Sidewalk Sign on private property;
(g) an Inflatable Sign;
(h) a Billboard,
within the City shall apply for and obtain a permit before displaying their sign.

3.2.2 Every person applying for a sign permit shall provide to the Director or, where a building permit is required, the Chief Building Official with:
(a) a completed application form as prescribed by the City;
(b) all plans, drawings and other materials as required by the City;
(c) all applicable permit fees as set out in the City's User Fees and Charges By-law;
(d) the written authorisation of the owner of the property where the person applying for the sign permit is not also the owner of the property where the sign will be displayed; and
(e) where applicable, proof of approval for the proposed sign from all governmental authorities having jurisdiction.

3.2.3 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 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 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 provisions of the Ontario Building Code.

3.2.4 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 the Ontario Building Code will be deemed to satisfy the requirement for a sign permit under this By-law.

3.2.5 No person shall alter a sign for which sign permit or building permit has been obtained without the prior written permission of the Director or the Chief Building Official respectively and such permission may be conditional on a new sign permit or building permit being applied for and obtained.

3.3 SIGN PERMIT REFUSAL, EXPIRY, OR RENEWAL

3.3.1 A permit may be refused:
(a) if the proposed sign does not comply with this By-law, any other By-law or federal or provincial statute or regulation; or
(b) where the proposed sign is to be displayed on private property, if any other sign displayed on the property does not comply with this By-law.

3.3.2 A Billboard, Ground Sign or Wall Sign permit issued by the City shall expire 6 months from the date of issuance unless the sign is displayed for its intended purpose and a permit shall expire upon the removal of the sign.

3.3.3 Where a Billboard, Ground 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 6 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.

3.3.4 The Director may revoke a permit under the following circumstances:
(a) the permit was issued in error;
(b) the sign does not comply with this By-law or any other by-law, the Ontario Building Code, the Ontario Heritage Act or any federal or provincial statute or regulation;
(c) the permit was issued as the result of false, mistaken, incorrect, or misleading statements, information, or undertakings on the application;
(d) the display of the sign has not commenced within 6 months after the issuance of the permit;
(e) the display of the sign, in the opinion of the Director, has been substantially suspended or discontinued for a period of more than 1 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.

3.4 EXISTING SIGNS

3.4.1 Any sign that is lawfully displayed on the day this By-law comes into force may continue to be 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.

3.5 REFUNDS

3.5.1 Subject to subsections 3.5.2 and 3.5.3, the Director shall determine the amount of the fees, if any, that may be refunded in accordance with the City’s User Fees and Charges By-law where:
(a) the sign permit applicant requests in writing that the sign permit application be cancelled;
(b) the Director 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, the Ontario Heritage Act or any federal or provincial statute or regulation; or
(c) the permit was issued in error.

3.5.2 There shall be no refund where:
(a) the permit was issued 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 displayed prior to the issuance of a permit.

3.5.3 Refunds shall only be provided for Ground Sign and Wall Sign permit applications.

PART 4.0
GENERAL PROHIBITIONS AND REGULATIONS

4.1 No person shall display or permit to be displayed 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) which is not specifically permitted under this By-law;
(d) which is on City property except:
   (i) a Poster or Election Sign as permitted by this By-law; or
   (ii) with the permission of the City;
(e) which is on property without the permission of the owner of the property;
(f) which obstructs the view of any pedestrian or driver of a vehicle, obstructs the visibility of any traffic signal or traffic control device, or interferes with vehicular traffic in a manner that could endanger any person;
(g) which is on any traffic signal or traffic control device;
(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 Director has directed be removed;
(k) which bears or displays the City logo, crest or seal in whole or in part, without the express written permission of the City; or
(l) which does not comply with all applicable by-laws, statutes or regulations including, but not limited to, the Ontario Heritage Act.

4.2 A person shall be deemed to be displaying a sign if that person is the sign owner and fails to stop the display of the sign.
PART 5.0

REGULATIONS FOR PARTICULAR TYPES OF SIGNS

5.1 PROHIBITED SIGNS

5.1.1 No person shall display or permit to be displayed:

(a) any sign with a video screen or any flashing, kinetic, or illusionary motion, except an electronic message display as permitted under this By-law;
(b) any sign supported entirely or partly by the roof of a building or structure and which projects above the roof;
(c) any sign displayed within a visibility triangle;
(d) 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;
(e) any sign which obstructs or is displayed in a parking space required under the City's zoning by-laws; or
(f) any sign within 400.0 m of the right of way of Highway 403, the Queen Elizabeth Way, the Lincoln M. Alexander Parkway or the Red Hill Valley Parkway.

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, 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 displayed pursuant to an agreement with the City are permitted.

5.2 GROUND SIGNS INCLUDING CONSTRUCTION INFORMATION GROUND SIGNS

5.2.1 No person shall display or permit to be displayed a Ground Sign in accordance with 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 displayed except in accordance with the following regulations:

permit / timing

(a) obtain a permit under this By-law;
(b) for a Construction Information Ground Sign, displayed after any applicable approval for the construction or development project under the Planning Act has been given;
(c) for a Construction Information Ground Sign, maximum display period of not more than 28 days after construction or development is completed;

structure

(d) embedded in a foundation in the ground to a depth of at least 1.2 metres or secured in an alternative manner that is satisfactory to the Chief Building Official;
(e) maximum sign area of 0.3 m² for every 1.0 m of the frontage along which the Ground Sign is located, not to exceed a total sign area of 18.0 m² for a single-faced Ground Sign or 36.0 m² for a double or multi-faced Ground Sign;
(f) maximum height of 7.5 m;

content

(g) for a Ground Sign, except a Construction Information Ground Sign:
   (i) includes the municipal address number of the property on which the Ground Sign is displayed shown at the top or the bottom in numerals that are a minimum height of 15.0 cm;
   (ii) includes one or more of the following in copy that is a minimum height of 15.0 cm:
        1. the name of the business;
        2. the registered trademark of the business;
        3. the ownership of the business; or
        4. the name of the activity, product or service available;
   (iii) may allocate a maximum 50% of the sign face to a readograph or electronic message display provided that no copy displayed on an electronic message display shall be displayed for less than three seconds, during which there shall be no movement or change in colour or intensity of illumination;
   (iii) may advertise a business on the property on which the Ground Sign is displayed or an activity, product or service available on that property, or a charity’s or community organization’s activities;
   (iv) may allocate a maximum 25% of the sign area or 1.2 m², whichever is lesser, except for an electronic message display, to advertising a business that is not on the property on which the Ground Sign is displayed or an activity, product or service that is not available on that property;

location

(h) not within 15.0 m of a traffic signal or traffic control device;
(i) not within 1.5 m or a distance equal to 75% of the height of the Ground Sign, whichever is greater, of any property line;
(j) along the same frontage used to calculate the maximum sign area;
(k) where more than 1 Ground Sign is displayed along a frontage, not displayed within 200 m of another Ground Sign along the same frontage
(l) notwithstanding (k), 1 Ground Sign which provides courtesy or directional information only, such as a menu board or clearance sign, is permitted;
(m) for a Construction Information Ground Sign, on vacant property in residential and commercial zones;
(n) for a Construction Information Ground Sign, maximum of 2 for any single development or construction project;
(o) for a Ground Sign, except a Construction Information Ground Sign, permitted in all zones except where the use of the property is for one or more of the following uses:
  (i) a Single Detached Dwelling;
  (ii) a Semi Detached Dwelling;
  (iii) a Duplex;
  (iv) a Triplex;
  (v) a Fourplex or Quadruplex;
  (vi) a Street Townhouse;
  (vii) a Mobile Home;
  (viii) a Residential Care Facility for 6 or less residents;
  (ix) a Lodging House for 6 or less lodgers;
  (x) a Retirement Home for 6 or less residents; or
  (xi) an Emergency Shelter for 6 or less residents.

5.2.3 No person shall display a Ground Sign on a property that ceases to be vacant or undeveloped and where any Billboard displayed on the property has not been removed.

5.3 WALL SIGNS INCLUDING PROJECTING SIGNS

5.3.1 No person shall display or permit to be displayed a Wall Sign except in accordance with 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 shall be displayed except in accordance with the following regulations:

   permit
   (a) obtain a permit under this By-law;

   structure
(b) not extend beyond the sides or top of the wall on which the Wall Sign is displayed;
(c) maximum sign area of 15% of the wall to which the Wall Sign is attached;
(d) where on a wall above a location where the public passes, not less than 2.8 metres above the grade below;

**content**

(e) for a Projecting Sign, maximum area of copy of 20% of its sign area except the maximum area of the copy on a Projecting Sign that has a sign area of 1.0 m² or less may be 100% of its sign area;
(f) for a Wall Sign, except a Projecting Sign, a maximum of 50% of the sign area may be a readograph or electronic message display provided that no copy displayed on an electronic message display shall be displayed for less than three seconds, during which there shall be no movement or change in colour or intensity of illumination;
(g) may advertise a business on the property on which the Wall Sign is displayed or an activity, product or service available on that property, or a charity's or community organization's activities;
(h) may allocate a maximum 25% of the sign area or 1.2 m², whichever is less, except for an electronic message display, to advertising a business that is not on the property on which the Wall Sign is displayed or an activity, product or service that is not available on that property;

**location**

(j) where overhanging a public right of way under the jurisdiction of the City, the owner of the property shall enter into an encroachment agreement with the City and shall satisfy the City's requirements for liability insurance;
(k) on the same building wall used to calculate the maximum sign area;
(l) permitted in all zones except where the use of the property is for one or more of the following uses:
   (i) a Single Detached Dwelling;
   (ii) a Semi Detached Dwelling;
   (iii) a Duplex;
   (iv) a Triplex;
   (v) a Fourplex or Quadruplex;
   (vi) a Street Townhouse;
   (vii) a Mobile Home;
   (viii) a Residential Care Facility for 6 or less residents;
   (ix) a Lodging House for 6 or less lodgers;
   (x) a Retirement Home for 6 or less residents; or
   (xi) an Emergency Shelter for 6 or less residents.

### 5.4 MOBILE SIGNS
5.4.1 No person shall display or permit to be displayed a Mobile Sign except in accordance with the applicable general regulations under this By-law, and the specific regulations under this section of the By-law.

5.4.2 No Mobile Sign shall be displayed except in accordance with the following regulations:

**permit /timing**

(a) obtain a permit under this By-law;
(b) submit an application for a permit no earlier than 28 days prior to the date the permit comes into effect;
(c) applications for permits will be processed by the City 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 Director;
(d) maximum display period of 28 consecutive days, being 2 permit periods of 14 days each;
(e) minimum of 14 consecutive days after a display period ends before another permit may be issued on a property;
(e) maximum of 6 permits issued for a single business on a property for a total calendar year allotment of 84 days;

**structure**

(f) maximum sign area of 4.5 m² per sign face for a commercial or industrial use;
(g) maximum height of 2.7 m and maximum width of 2.5 m;

**content**

(i) not illuminated;
(j) sign area may not be an electronic message display;
(k) display the name and telephone number of the sign owner in a clearly visible location;
(l) may advertise a business on the property on which the Mobile Sign is displayed or an activity, product or service available on that property, or a charity’s or community organization’s activities;
(m) not advertising a business that is not on the property on which the Mobile Sign is displayed or an activity, product or service that is not available on that property;

**location**

(n) in a location approved in advance by the Director;
(o) not within:
(i) 15.0 m of an intersection or traffic signal or traffic control device;
(ii) 3.0 m of a driveway line;
(iii) 15.0 m of a side property line abutting a property with a residential use or 3.0 m of a side property line abutting a property with any other use;
(iv) 1.5 m of a street line; or
(v) any parking space required under the zoning by-laws of the City;
(p) not on a vacant property;
(q) no more than 2 Mobile Signs, separated by a distance of at least 50.0 metres, on a property at any one time;
(r) permitted in all zones except where the use of the property is for one or more of the following uses:
   (i) a Single Detached Dwelling;
   (ii) a Semi Detached Dwelling;
   (iii) a Duplex;
   (iv) a Triplex;
   (v) a Fourplex or Quadruplex;
   (vi) a Street Townhouse;
   (vii) a Mobile Home;
   (viii) a Residential Care Facility for 6 or less residents;
   (ix) a Lodging House for 6 or less lodgers;
   (x) a Retirement Home for 6 or less residents; or
   (x) an Emergency Shelter for 6 or less residents;
provided that no Mobile Sign shall be displayed on a property within the Downtown Community Improvement Project Area, a Business Improvement Area, the Ancaster Village Core Area, or within the Glanbrook Village Core Area.

5.5 BANNERS

5.5.1 No person shall display or permit to be displayed a Banner except in accordance with the applicable general regulations under this By-law, and the specific regulations under this section of the By-law.

5.5.2 No Banner shall be displayed except in accordance with the following regulations:

permit / timing

(a) obtain a permit under this By-law, except for a Banner with a maximum sign area of less than 1 m² or advertising a charity’s or community organization’s activities;
(b) no more than 1 permit issued for a single business at a single property in a calendar year, provided that one additional permit may be issued if the Director is satisfied that a business opening or closing event will be advertised;
(c) maximum display period of 28 consecutive days, being one permit period;

structure

(d) securely attached to a single building, structure or fence or in an alternative manner that is satisfactory to the Chief Building Official;
(e) maximum sign area of 6.0 m$^2$ in sign area;

content

(f) where on private property:
   (i) may advertise a business on the property on which the Banner is displayed, an activity, product or service available on that property, or a charity’s or community organization’s activities; and
   (ii) not advertising a business that is not on the property on which the Banner is displayed or an activity, product or service that is not available on that property;

(g) where on a street:
   (i) may advertise a business adjacent to the property on which the Banner is displayed, an activity, product or service available on that property, or a charity’s or community organization’s activities; and
   (ii) not advertising a business that is not adjacent the property on which the Banner is displayed or an activity, product or service that is not available on that property;

location

(h) not on a boundary fence;
(i) a maximum of 1 on each building elevation, structure or fence;
(j) permitted in all zones except where the use of the property is for one or more of the following uses:
   (i) a Single Detached Dwelling;
   (ii) a Semi Detached Dwelling;
   (iii) a Duplex;
   (iv) a Triplex;
   (v) a Fourplex or Quadruplex;
   (vi) a Street Townhouse;
   (vii) a Mobile Home;
   (viii) a Residential Care Facility for 6 or less residents;
   (ix) a Lodging House for 6 or less lodgers;
   (x) a Retirement Home for 6 or less residents; or
   (xi) an Emergency Shelter for 6 or less residents.
5.6 TEMPORARY SIGNS INCLUDING AGRICULTURAL PRODUCE PORTABLE SIGNS, CORRUGATED PLASTIC TYPE SIGNS, NEW HOME DEVELOPMENT PORTABLE SIGNS AND SIDEWALK SIGNS

5.6.1 No person shall display or permit to be displayed a Temporary Sign except in accordance with the applicable general regulations under this By-law, and the specific regulations under this section of the By-law.

5.6.2 No Temporary Sign shall be displayed except in accordance with the following regulations:

permit / timing

(a) obtain a permit under this By-law, except for a Sidewalk Sign on private property or an Agricultural Produce Portable Sign;
(b) for a Corrugated Plastic Type Sign and a Sidewalk Sign, except for a Sidewalk Sign on private property, maximum display period of 1 year, being one permit period;
(c) for a New Home Development Portable Sign:
   (i) no more than 10 permits issued at any one time advertising the sale of homes in a single development; and
   (ii) a permit period of 1 year with a maximum display period of no earlier than noon on any Friday and no later than noon of the following Monday, provided that:
       1. where a statutory holiday falls on a Friday, the maximum display period begins no earlier than noon on the preceding Thursday; and
       2. where a statutory holiday falls on a Monday, the maximum display period ends no later than noon on the following Tuesday;

structure

(d) for a Temporary Sign, except a Corrugated Plastic Type Sign:
   (i) not permanently secured to the ground, any structure or tree;
   (ii) maximum sign area of 0.48 m² for each sign face; and
   (iii) maximum height of 0.8 m
(e) for a Corrugated Plastic Type Sign a maximum sign area of 2.2 m² for each sign face;

content

(f) not illuminated;
(g) sign area may not be an electronic message display;
(h) for a Corrugated Plastic Type Sign and a Sidewalk Sign on private property:
   (i) may advertise a business on the property on which the Corrugated Plastic Type Sign or Sidewalk Sign is displayed, an activity, product or
service available on that property, or a charity’s or community organization’s activities; and

(ii) not advertising a business that is not on the property on which the Corrugated Plastic Type Sign or Sidewalk Sign is displayed or an activity, product or service that is not available on that property;

(i) for a Sidewalk Sign on the street:

(i) may advertise a business adjacent to the property on which the Sidewalk Sign is displayed, an activity, product or service available on that property, or a charity’s or community organization’s activities; and

(ii) not advertising a business that is not adjacent to the property on which the Sidewalk Sign is displayed or an activity, product or service that is not available on that property;

location

(j) for an Agricultural Produce Portable Sign and a New Home Development Portable Sign:

(i) not on private property;

(ii) not obstructing any permanent sign;

(iii) not on a traffic island or median or attached to a light standard or utility pole;

(iv) not on a public sidewalk;

(v) not less than 3.0 m from a driveway line;

(vi) not less than 1.5 m from the curb or edge of the travelled portion of a street where there is no curb;

(vii) only on the untravelled portion of a street;

(viii) maximum of 3 on any one corner of an intersection with no farmer or builder respectively having more than 1;

(ix) satisfying the City’s requirements, if any, for liability insurance.

(k) for a Corrugated Plastic Type Sign:

(i) on private property;

(ii) not within:

1. 15.0 m of an intersection or traffic signal or traffic control device;

2. 3.0 m of a driveway line;

3. 15.0 m of a side property line abutting a property with a residential use or 3.0 m of a side property line abutting a property with any other use;

4. 1.5 m of a street line; or

5. any parking space required under the zoning by-laws of the City;

(iii) not on a vacant property;

(iv) separated by a distance of at least 10.0 metres for any other Corrugated Plastic Type Sign;

(l) for a Sidewalk Sign:

(i) where displayed on private property, as close as possible to the front wall of the advertised business;

(ii) no more than 1 for each business advertised;
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(iii) where displayed on public property:
1. on a sidewalk or on the boulevard between the sidewalk and the travelled portion of a street within the Downtown Community Improvement Project Area, a Business Improvement Area, the Ancaster Village Core Area, or within the Glanbrook Village Core Area;
2. adjacent to the curb opposite or against the front wall of the advertised business provided there is a minimum 1.5 metres of unobstructed sidewalk and no encroachment on any Urban Braille System;
3. only during the hours of operation of the advertised business;
4. satisfying the City’s requirements for liability insurance;

5.7 INFLATABLE SIGNS

5.7.1 No person shall display or permit to be displayed an Inflatable Sign except in accordance with the applicable general regulations under this By-law, and the specific regulations under this section of the By-law.

5.7.2 No Inflatable Sign shall be displayed except in accordance with the following regulations:

permit / timing

(a) obtain a permit under this By-law, except for an Inflatable Sign advertising a charity’s or community organization’s activities;
(b) no more than 2 permits issued for a single business at a single property in a calendar year, provided that one additional permit may be issued if the Director is satisfied that a business opening or closing event will be advertised;
(c) maximum display period of 14 consecutive days, being 2 permit periods of 7 days each;

structure

(d) secured in a manner that is satisfactory to the Director;
(e) maximum height of 7.0 m and maximum width of 6.0 m;

content

(f) may advertise a business on the property on which the Inflatable Sign is displayed, an activity, product or service available on that property, or a charity’s or community organization’s activities;
(g) not advertising a business that is not on the property on which the Inflatable Sign is displayed or an activity, product or service that is not available on that property;
location

(h) not less than 5 m from any property line
(i) permitted only in commercial, industrial and institutional zones.

5.8 POSTERS

5.8.1 No person shall display or permit to be displayed a Poster except in accordance with the applicable general regulations under this By-law, and the specific regulations under this section of the By-law.

5.8.2 No Poster shall be displayed except in accordance with the following regulations:

permit / timing

(a) no permit required;
(b) maximum display period of 21 days and not more than 3 days after the event or other activity the Poster advertises;

structure

(c) affixed only by tape covering no more than 20% of the Poster’s sign area;
(d) consisting entirely of biodegradable material;
(e) maximum sign area of 0.13 m²;

location

(f) on public property, a maximum of 1 Poster advertising the same event or other activity:
   (i) on a sign kiosk;
   (ii) on a poster sleeve;
   (ii) on a utility pole, a minimum of 200 m from any other utility pole displaying a Poster advertising the same event or other activity, sign kiosk or poster sleeve;
(g) on private property:
   (i) within a single maximum display area of 2.2 m²; and
   (ii) a minimum of 200 m from any other display area permitted under paragraph g(i).

5.10.3 Notwithstanding any other provision of this Bylaw, the City may remove and dispose of Posters without notice or compensation to any person.
5.9 ELECTION SIGNS

5.9.1 No person shall display or permit to be displayed an Election Sign except in accordance with the applicable general regulations under this By-law, and the specific regulations under this section of the By-law.

5.9.2 No Election Sign shall be displayed except in accordance with the following regulations:

**permit / timing**

(a) no permit required;
(b) for an Election Sign associated with a federal or provincial election, displayed no earlier than the date the writ of election is issued, with the exception of signage at a building or portion of a building where a candidate maintains his or her office for the purpose of running an election campaign;
(c) for an Election Sign associated with a municipal election, displayed no earlier than 28 days prior to voting day, with the exception of signage at a building or portion of a building where a candidate maintains his or her office for the purpose of running an election campaign;
(d) removed by the candidate no later than 3 days after the voting day of the election for which the Election Sign was displayed;

**structure**

(e) for an Election Sign located on the property where the use is for one or more of the following:
   (i) a Single Detached Dwelling;
   (ii) a Semi Detached Dwelling;
   (iii) a Duplex;
   (iv) a Triplex;
   (v) a Fourplex or Quadruplex;
   (vi) a Street Townhouse;
   (vii) a Mobile Home;
   (viii) a Residential Care Facility for 6 or less residents;
   (ix) a Lodging House for 6 or less lodgers;
   (x) a Retirement Home for 6 or less residents; or
   (xi) an Emergency Shelter for 6 or less residents

   a maximum sign area of 1.5 m²;

(f) for an Election Sign with a sign area larger than 1.5 m², all applicable regulations of this By-law apply provided no permit, except a permit under the Building Code Act, 1992 if applicable, is required;
content

(g) sign area may not be an electronic message display;

location

(h) displayed on private property, except if displayed as a Poster.

5.10 BILLBOARDS

5.10.1 No person shall display or permit to be displayed a Billboard except in accordance with the applicable general regulations under this By-law, and the specific regulations under this section of the By-law.

5.10.2 No Billboard shall be displayed except in accordance with the following regulations:

permit

(a) obtain a permit under this By-law;

structure

(b) maximum sign area of 18.0 m²;
(c) maximum height of 12.0 m and maximum width of 4.0 m;

content

(d) not animated, except a Tri-Vision Billboard;
(e) may allocate a maximum 50% of the sign face to a readograph;

location

(f) not on a property within the Downtown Community Improvement Project Area, the Waterdown Urban Area or the Waterdown Settlement Areas;
(g) not less than 300.0 m from another Billboard;
(h) not less than 300.0 m from any residentially zoned property;
(i) not less than 15.0 m from any property line;
(j) on vacant, undeveloped property zoned commercial or industrial.

5.10.3 Where a property on which a Billboard is displayed ceases to be vacant or undeveloped, the sign owner shall remove the Billboard from the property.

5.11 OTHER SIGNS

5.11.1 No permit is required for the signs under subsection 5.11.2.
5.11.2 No person shall display or permit to be displayed:

**agricultural sign**

(a) a sign associated with an agricultural use except:
   (i) with a maximum sign area of 3.0 \( m^2 \); and
   (ii) in an agricultural zone;

**agricultural society sign**

(b) a sign displayed by a non-profit agricultural society for an event or fair the society operates except:
   (i) with a maximum sign area of 9.0 \( m^2 \); and
   (ii) in an agricultural zone;

**branding sign**

(c) a sign that appears on any surface on a property, except a wall of a building, and has no independent structure of its own, except:
   (i) consisting only of the following:
       1. the name of the business on the property;
       2. the registered trademark of the business on the property;
       3. the ownership of the business on the property; or
       4. the name of an activity, product or service available on the property; and
   (iii) in a commercial, industrial or institutional zone or on that part of a property where the use is commercial, industrial or institutional;

**commemorative sign**

(d) a commemorative plaque or cornerstone except:
   (i) with a maximum sign area of 0.3 \( m^2 \); and
   (ii) at least 1.5 m from a street line or property line;

**directional sign**

(e) a sign which gives directions or instructions for the control of vehicular or pedestrian traffic including an entry or exit sign except:
   (i) if the directional sign is wall-mounted:
       1. with a maximum sign area of 1 \( m^2 \); and
       2. at least 2.8 m above grade if the directional sign projects more than 10 cm;
   (ii) if the directional sign is not wall-mounted:
       1. with a maximum sign area of 0.5 \( m^2 \),
       2. with a maximum height of 1 m; and
3. at least 1.5 m from a street line, property line or driveway line;
   (iii) on the property for which directions or instructions are being given; and
   (iv) in a commercial, industrial or institutional zone or on that part of a
        property where the use is commercial, industrial or institutional;

home occupation sign

(f) a sign advertising a home occupation except:
   (i) with a maximum sign area of 0.3 m²;
   (ii) with no illumination;
   (iii) in a residential zone; and
   (iv) attached to a wall of the home occupation the home occupation sign is
        advertising;

incidental sign

(g) a sign that has a purpose incidentally related to use or occupancy that is
    intended to assist the public with the location of facilities or provides
    courtesy or directional information only except:
    (i) with a maximum sign area of 1.0 m²;
    (ii) if the incidental sign is a preview menu board, its sign area may be an
         electronic message display provided the sign area is not visible from
         the street;
    (iii) at least 1.5 m from a street line or property line;
    (iv) on the property of the use or occupancy the incidental sign is
         incidentally related to; and
    (v) in an agricultural, commercial, industrial or institutional zone or on that
        part of a property where the use is agricultural, commercial, industrial
        or institutional;

mural

(h) an artistic work applied to exterior of a building or structure that does not
    include any advertising except:
    (i) with a maximum sign area of 50% of the wall on which the mural is
        displayed; and
    (ii) in a commercial zone;

open house directional sign

(i) a temporary, free-standing sign advertising an open house except:
    (i) between 10:00 a.m. and 6 p.m. of the day of the open house;
    (ii) with a maximum sign area of 0.5 m²;
    (iii) not displayed on a traffic island or median or attached to a light
         standard or utility pole; and
    (iv) at least 0.3 m from a sidewalk;
real property sale, lease or rent sign

(j) a sign advertising the sale, lease or rent of real property except:
   (i) for a maximum of 14 days after a firm sale is reported to the local
estate agents association or after the agreement to lease or rent has been
finalized;
   (ii) if the real property sale, lease or rent sign is for one dwelling with a
maximum sign area 0.6 m²;
   (iii) if the real property sale, lease or rent sign is for any real property
other than one dwelling with a maximum sign area of 4.0 m²;
   (iv) with no illumination; and
   (v) on the property which is being sold, leased or rented;

religious emblem

(k) an emblem of religious organization except on private property;

sale of seasonal farm produce sign

(l) a sign advertising the sale of seasonal farm produce except:
   (i) with a maximum sign area of 3.0 m²; and
   (ii) in an agricultural zone;

trade sign

(m) a sign advertising work performed to repair, renovate or landscape except:
   (i) while the work is being performed;
   (ii) with a maximum sign area of 0.48 m²;
   (iii) with a maximum height of 0.8 m; and
   (iv) with no illumination;

window sign

(n) 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 except:
   (i) if the window sign is an electronic message display, with a maximum
sign area of 0.48 m²;
   (ii) if window sign is not electronic message display, with a maximum sign
area of 50% of the window surface; and
   (ii) in a commercial, industrial or institutional zone or on that part of a
property where the use is commercial, industrial or institutional;

yard, garage or lawn sale sign

(o) a sign advertising a yard, garage or lawn sale except:
(i) with a maximum of 4 signs;
(ii) displayed no earlier than the day before the sale and removed no later than the day of the sale;
(iii) for a maximum of 36 hours; and
(iv) with a maximum sign area of 0.2 m².

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 and shall be accompanied by the applicable fee, as set out in the City’s User Fees and Charges By-law.

6.3 Variances may be authorized by the Director.

6.4 The General Manager may authorize a variance if in his or her opinion the general intent and purpose of the By-law are maintained.

6.5 In considering an application for a variance, the Director 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 within 21 days of the decision is made to the Economic Development and Planning Committee or any successor Committee.

6.7 The City Clerk shall notify the applicant once a hearing date before the Economic Development and Planning Committee or any successor 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 Economic Development and Planning Committee or any successor 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.

6.9 A variance from this By-law shall expire 6 months from the date of issuance unless the sign is displayed for its intended purpose and a variance shall expire upon the removal of the sign.

PART 7.0

PENALTIES AND ENFORCEMENT

7.1(1) Every person who contravenes any provision of this By-law is guilty of an offence.
   (2) A director or officer of a corporation who knowingly concurs in a contravention of this By-law is guilty of an offence.

7.2 Every person convicted under this By-law is liable:
   (a) upon a first conviction, to a maximum fine of $5,000.00;
   (b) upon a subsequent conviction, to a maximum fine of $10,000.00.

7.3 Notwithstanding section 7.2, where the person convicted is a corporation, the corporation is liable:
   (a) upon a first conviction, to a maximum fine of not more than $10,000;
   (b) upon any subsequent conviction, to a maximum fine of not more than $25,000.

7.4 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.

7.5 Where a sign is displayed on, over, partly on, or partly over, property owned by or under the jurisdiction of the City and not in accordance with the regulations of this By-law, the sign may be removed immediately by the City without notice or compensation.
7.6 Where a sign does not comply with this By-law or a permit issued under this By-law, the Director may order the sign owner to remove or bring the sign into compliance in the manner and within the time specified in the order.

7.7 The order mentioned in section 7.6 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; 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 displayed.

7.8 Where the order is served in accordance with section 7.7 it is deemed to have been received by the party being served upon the mailing or posting of the order.

7.9 Where a sign is not removed or is not brought into conformity as required by an order under section 7.6, the Director may have the sign removed without notice or compensation. For this purpose, the Director, an officer and their contractor or other agent may enter upon the property at any reasonable time.

7.10 The cost incurred by the City 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 in removing a sign under this part of the By-law is a debt payable to the City and may be recovered in any court of competent jurisdiction.

7.11 Any sign removed by the City shall be stored for 28 days, during which time the sign owner may redeem such sign upon payment of the applicable fee prescribed in the City’s User Fees and Charges By-law

7.12 Where a sign has been removed by the City and has been stored for a period of 28 days and has not been redeemed by the sign owner, such sign may be destroyed or otherwise disposed of by the City 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

TRANSITION AND REPEAL

10.1(1) All permits issued under By-law 06-243 which are current and valid on the day this By-law comes into force shall be deemed to be:
   (a) current and valid under this By-law; and
   (b) subject to all of the applicable provisions of this By-law, including but not limited to expiring and being renewable as though they had been issued under this By-law.

   (2) All prosecutions and other enforcement processes commenced under By-law No. 06-243 which have not been completed on the day this By-law comes into force shall be completed under By-law No. 06-243 as if it had not been repealed.

10.2 By-law No. 06-243 is repealed as of the day on which this By-law comes into force.

PART 11.0

EFFECTIVE DATE

11.1 This By-law comes into force on the day it is passed.

PASSED this day of , 200.

_________________________________________  ______________________________
Fred Eisenberger                              Kevin C. Christenson
MAYOR                                         CLERK
CITY OF HAMILTON

BY-LAW NO. __________

To Amend By-law No. 07-170, a By-law to License and Regulate Various Businesses

WHEREAS Council enacted a by-law to license and regulate various businesses being City of Hamilton By-law No. 07-170;

AND WHEREAS this By-law provides for the replacement of Schedule 26 of City of Hamilton By-law No. 07-170;

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

1. Schedule 26 of By-law No. 07-170 is deleted and replaced with the new Schedule 26, entitled “Mobile Sign Leasing or Renting”, attached as Appendix A to this By-law.

2. All licences issued under Schedule 26 which are current and valid on the day this By-law comes into force shall be deemed to be:

   (a) current and valid under the new Schedule 26; and

   (b) subject to all of the applicable provisions of By-law No. 07-170 and the new Schedule 26, including but not limited to expiring and being renewable as though they had been issued under the new Schedule 26.
4. This By-law comes into force on the day it is passed.

PASSED this day of , 200 .

__________________________        ____________________________
MAYOR                           CLERK
SCHEDULE 26

MOBILE SIGN LEASING OR RENTING

PART 1.0
DEFINITIONS

1.1 In this Schedule:

“advertising device” means any object displayed so as to attract public attention to any goods, services, facilities or events, including but not limited to flags, banners, pennants, and lights;

“copy” means the graphic content of a sign surface in either permanent or changeable letter, pictorial, symbolic, or numeric form;

“display” in any form includes “erect” and “locate”;

“Mobile Sign” means a sign that is temporary, 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;

“Mobile Sign permit” means a sign permit issued for the display of a Mobile Sign under the Hamilton Sign By-law;

“person” includes an 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; and,

“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.
PART 2.0
GENERAL PROVISIONS

2.1 No person shall carry on the business of leasing or renting Mobile Signs without holding a current valid licence issued under this By-law including this Schedule.

2.2 For the purpose of section 2.1, a person who carries on the business of leasing or renting Mobile Signs from a location outside the City shall be deemed to be carrying on business in the City if the person leases or rents Mobile Signs that are displayed in the City.

2.3 Every person who carries on the business of leasing or renting Mobile Signs shall ensure that all required permits are obtained prior to placement of a Mobile Sign and that its placement is in accordance with any permit issued.

2.4 In the event of a conflict between a provision of this Schedule and any other provision of this By-law, the provision in this Schedule prevails.

PART 3.0
LICENCE APPLICATIONS

3.1 In addition to any of the items required in the “LICENCE APPLICATIONS AND FEES” Part of the General Provisions of this By-law, the applicant shall, at the time of filing the application, deliver to the Issuer of Licences the following:

   (a) if the applicant is a corporation, a certified copy of the incorporating document showing the names and addresses of all Directors, Officers and Shareholders;

   (b) if the applicant is a registered partnership, a certified copy of the registered Declaration of Partnership, showing the names and addresses of all partners; and

   (c) a solemn declaration that all Mobile Signs to be leased or rented shall have the name and phone number of the licensee affixed to the Mobile
PART 4.0  
GROUNDs FOR REFUSAL TO ISSUE OR RENEw A LICENCE  

4.1 In addition to the grounds listed in section 12 of the General Provisions of this By-law, the Issuer of Licences shall refuse to issue or renew a licence where, having regard to the applicant’s financial position, the applicant cannot be reasonably expected to be financially responsible in the conduct of the business which is to be licensed or is licensed.

PART 5.0  
PROHIBITIONS  

5.1 No person shall:

(a) publish or cause to be published any representation that the person is licensed under this Schedule if the person is not so licensed;

(b) display or permit the display of a Mobile Sign that does not have the name and phone number of the licensee under this Schedule, if a licence is required, affixed to the Mobile Sign at a clearly visible location;

(c) display or permit the display of a Mobile Sign other than in accordance with all of the applicable provisions of the City’s by-laws respecting signs before February 1, 2007 and with the Hamilton Sign By-law on and after February 1, 2007; or

(d) fail to ensure that the message board on a Mobile Sign is secured with a locking mechanism to prevent any person, other than the licensee under this Schedule or the Mobile Sign permit holder under the Hamilton Sign By-law, from having access to the message board.

PART 6.0
CHANGES IN INFORMATION

6.1 Every licensee shall notify the Issuer of Licences, in writing, within 6 days after the event, of any change to the information contained in their application.

6.2 Where a change has occurred in the name or business name of a licensee, the licensee shall attend within 6 days of the date of the change at the office of the Issuer of Licences to have the licence and licence records amended accordingly.