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
General Manager
Planning and Economic Development Department
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”.

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 posterign, 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 then 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 m\(^2\) the current fee is $155.00; for signs greater than 2.5 m\(^2\) and less than 4.0 m\(^2\) the fee is $259.00; and for signs greater than 4.0 m\(^2\) 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 posterin. 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 posterin. Currently, Hamilton regulates posterin 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 posterin, 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 posterin 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 posterin in some areas of the City. Therefore, staff recommends that additional restrictions on posterin 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 postering 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
Attachs. (2)
Hamilton Sign By-law Report

Prepared by
Martin Rendl Associates

August 2009
Introduction

This report addresses the following matters related to sign by-laws in general and Hamilton Sign By-law 06-243 in particular:

- Municipal Regulation of Posters;
- Sign Permit Fees;
- Approaches to Agricultural Signage;
- Electronic and Video Display Technology in Signs;
- Hamilton Sign By-law Comparative Commentary.

1. Municipal Regulation of Posters

The term poster refers to a leaflet, handbill, placard or other type of sign that persons place on utility poles, light standards or other types of public infrastructure located within the public road right-of-way. This infrastructure is generally owned and maintained by the municipality, a public utility or agency.

Posters generally advertise an event (e.g., garage sale, musical performance), provide notice (e.g., lost pet), or advertise a business (e.g., home day care, junk removal, garage opener installation, multiple level marketing). Posters are fastened to the object in the road allowance by a variety of methods including glue, tape, wire, and nails.

Quite often the person responsible for the placing the poster does not remove the poster once the event it refers to has passed. In the case of a poster that advertises a business, it is in the interest of the business to have the poster on display for as long as possible. The accumulation of posters on utility poles, traffic controls, and other objects in the right-of-way creates unattractive streets and contributes to visual clutter in the public realm.

Not all municipalities regulate posters. Those that do not regulate posters have no regulation or by-law on which they can rely to control posters and deal with this matter in the municipality.

Many municipalities regulate posting through a by-law. This can be a by-law regulating the placement structures and objects in the public right-of-way. A more common approach is to regulate posters through the municipal sign by-law, as is the case in Hamilton.

Generally, where a municipal sign by-law regulates posting, the sign by-law sets out the requirements persons must follow to display posters in the municipality in compliance with municipal regulations. These regulations balance the display of posters with the public interest in avoiding litter, the creation of blight in the public realm and other municipal objectives.

The approach to regulate rather than prohibit posters is based on the Supreme Court of Canada’s 1993 decision in Ramsden v. Peterborough. The Supreme Court set aside the City of Peterborough’s by-law which banned all posters on public property. The Court ruled that the municipality’s total ban on posters
infringed the Canadian Charter of Rights and Freedoms and that some public property must be made available for posterings. The Court noted that alternatives to a complete ban existed for the municipality to follow such as regulating the size of posters, the length of time a poster may be displayed, and how the poster is affixed.

A survey of the sign by-laws of the 14 Ontario municipalities with a population over 150,000 persons shows that three ban posters and 11 regulate posters. Where the municipality regulates posters, the sign by-law usually address matters such as where the poster can lawfully be displayed, its size, the method of attaching the poster, the time by which it must be removed, and the municipality’s right to remove the poster. The approach these municipalities have taken is consistent with the means of regulating posters endorsed in the Ramsden case by the Supreme Court.

The following provides a summary of the approaches to posterings taken by the 14 largest Ontario municipalities.

**Toronto**

- Posters may be attached to a utility pole provided the poster is not placed more than two metres above the ground.
- The poster is not placed on any public signage, notice or electrical fixture or cable.
- The poster is printed on paper.
- The poster is attached flush to the surface of a utility pole with water soluble past, staples or removable tape.
- Posters may be attached to a temporary hoarding provided the hoarding owner has permitted and not prohibited by notice or otherwise, the placing of posters on the hoarding.
- Posters may be removed at any time by the City or hoarding permit holder in the course of routine cleaning operations.
- Where the City or hoarding permit holder has removed a poster, it may be destroyed or otherwise disposed of without any notice or compensation to the person responsible for placing the poster.
- Any poster placed in violation of the by-law may be removed and the person responsible for placing the poster in addition to any fine or penalty imposed for the offence may be required to pay a per poster removal fee of $60.00 per poster.

**Ottawa**

- Posters must be placed on poster collars within the downtown core.
- In other parts of Ottawa, posters can be displayed on utility poles not located in the road median and not within 200 metres of a poster collar.
- Only one poster with the same information can be placed on a poster collar.
- The poster can be no larger than 11 inches by 17 inches.
- The posting date must be written on the poster.
- Only tape can be used to attach the poster.
- Where there is no poster collar, the poster must be less than 2.5 m above the ground.
- Generally the poster can be displayed for 21 days or up to 48 hours after the event, whichever is less.
Mississauga

- Posters must be placed on a poster sleeve.
- A person may place only one poster on a poster sleeve.
- The poster must display the name of the person or business responsible for placing the poster.
- The poster cannot exceed 22 cm by 28 cm in size.
- The poster must conform to the shape of the poster sleeve.
- The poster can only be attached by staples, push pins or tacks.
- The City may remove and dispose of lawfully and unlawfully placed posters without notice in accordance with the City's regular maintenance schedule.

Hamilton

- Posters shall be erected and displayed only on a Community Bulletin Board or a Poster Sleeve at designated locations.
- The poster shall be made of paper or cardboard only.
- The poster shall be no larger than 22 cm by 28 cm.
- The poster shall be affixed only by tape.
- A person shall erect a maximum of one poster at an approved location.
- The poster shall be displayed for a maximum of 21 days and not more than three days after the end of an advertised event.
- The City may remove and dispose of a poster without notice or compensation to any person.

Brampton

- Signs not exceeding 36 cm by 43 cm in size may be placed in the road right-of-way provided they are attached only to designated utility poles within the right-of-way.

London

- A sign other than an official sign located on a road allowance and attached to any utility pole or to any other official sign structure is prohibited unless such attachment is authorized by Council or any other authority having jurisdiction in the matter.

Markham

- Posters shall only be placed on a designated poster sleeve.
- The poster cannot be larger than 22 cm by 28 cm.
- The poster shall conform to the shape of the poster sleeve.
- The poster can only be attached by staples, push pins or tacks.
- The Town may remove and dispose of lawfully and unlawfully placed posters without notice in accordance with the Town's regular maintenance schedule.

Vaughan

- Signs painted on, attached to, or supported by a traffic sign post, traffic sign pole, or wooden utility pole are prohibited.
Windsor

- A poster for a community event may be erected on the public road allowance subject to certain requirements.
- The poster's sign face shall not exceed 0.28 square metres, and be a maximum height of 1.0 metres.
- The poster shall display the name, address, and/or telephone number of the owner or erector of the sign.
- The poster shall not be displayed four weeks preceding the event and shall be removed within 48 hours of the event.
- No poster shall be displayed on a road shoulder, the travelled portion of the road allowance, within a daylight corner or on a structure not designed to support the sign.
- No poster shall advertise a commercial enterprise or activity.

Kitchener

- Poster sign shall only be erected on a street light standard or hydro utility pole except where the standard or pole supports an electrical duct, electrical switch mechanism, or a traffic control sign, device or signal.
- The poster shall not exceed 28 cm by 46 cm.
- The poster shall conform to the shape of the standard or pole on which it is displayed and shall not exceed its diameter.
- No more than one poster per owner shall be displayed on a standard or pole.
- The poster shall not cover or overlap another sign.
- No poster shall be displayed at a height exceeding 2.14 metres.
- The poster shall be attached only by tape, wire, staples, push pins or thumb tacks.
- The poster shall display the date of posting, the name, address, and telephone number of the owner of the poster sign.
- The owner shall remove the poster sign within 14 days from the date of posting or within 48 hours of the occurrence of the event advertised, whichever is the shorter period.
- No person shall remove the poster except the owner or a person authorized by the owner.
- The City may remove any poster erected contrary to the by-law without notice to the owner and at the owner's expense.
- The City may remove any poster displayed on a standard or pole without notice or compensation to its owner in order to maintain, clean or take down the standard or pole.

Oakville

- The Town shall erect Community Bulletin Boards at locations determined by Council.
- Temporary signs may be displayed by the public on a Community Bulletin Board.
- No person shall use more than 0.28 square metres of the total display area of a Community Bulletin Board at one time.
- The sign shall display the name, address and telephone number of the person responsible for displaying the sign.
- The Town shall maintain the Community Bulletin Board and may periodically clear all signs and materials posted thereon.
Burlington

- The public may place a poster sign on a Community Kiosk at the locations stated in the sign by-law.
- The poster must display the name, address, and telephone number of the person or organization responsible for creating and erecting the poster.

Richmond Hill

- Signs painted on, attached to, or supported by a utility pole are prohibited.

Sudbury

- No poster sign shall be erected without a permit.
- No person shall be entitled to a permit to erect a poster sign in a location other than a designated pole.
- The poster shall not exceed 45.72 cm by 60.96 cm.
- No poster shall cover or overlap any other sign on the designated pole.
- No poster shall be erected at a height exceeding 2.14 metres.
- No method other than rope, twine, plastic or nylon straps shall be used to erect the poster.
- A person shall erect only one poster on any designated pole.
- No person shall be entitled to a permit for a poster sign for a business advertisement until at least 30 consecutive days have elapsed from the date of the last issued permit for a poster sign for that business.
- No person shall be entitled to more than three permits in a calendar year for a poster advertising a business.
- The City may remove a poster sign for which a permit has been issued in order to maintain, clean or take down the pole on which it is displayed or the pole has been removed from the list of designated poles contained in the sign by-law.

In summary, the major Ontario municipalities regulate posters as a type of sign in their sign by-laws. Hamilton's approach to dealing with poster in By-law 06-243 is consistent with the approach of these other municipalities. Hamilton's implementation of poster regulations is also consistent with the principles the Supreme Court of Canada referred to in the Ramsden case.
2. Sign Permit Fees

The following is a summary of the sign permit fees for Ontario municipalities with a population greater than 150,000 persons in 2006, the most recent census.

The terms used for signs may differ from one municipality to another but generally fall into two categories: permanent and temporary signs.

Permanent signs refers to signs that are permanently erected on a lot or building such as ground and wall signs. Temporary signs refers to signs erected or displayed for a specific period and include signs such as portable signs, mobile signs, and sandwich board signs.

The municipalities surveyed 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;
- For temporary signs, permit fee for a defined display period.

### Toronto: 2,503,281

<table>
<thead>
<tr>
<th>Type</th>
<th>Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>Permanent Sign</td>
<td>$29.35 per square metre ($205.36 minimum fee)</td>
</tr>
<tr>
<td>Roof Sign</td>
<td>$35.20 per square metre ($205.36 minimum fee)</td>
</tr>
<tr>
<td>Portable Sign</td>
<td>$200.00</td>
</tr>
<tr>
<td>Mobile Sign</td>
<td>$125.00 for one month permit</td>
</tr>
<tr>
<td>New Development Sign</td>
<td>$200.00</td>
</tr>
</tbody>
</table>

### Ottawa: 812,129

<table>
<thead>
<tr>
<th>Type</th>
<th>Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>Permanent Sign</td>
<td>$280.00</td>
</tr>
<tr>
<td>Billboard Sign</td>
<td>$1,650.00</td>
</tr>
<tr>
<td>Street Ad</td>
<td>$500.00</td>
</tr>
</tbody>
</table>
| Temporary Sign           | $50.00 (sign face less than one square metre)  
                           | $75.00 (sign face greater than one square metre but less than two square metres)  
                           | $150.00 (sign face two square metres or greater) |
| Inflatable Sign           | $50.00                                  |

### Mississauga: 668,549

<table>
<thead>
<tr>
<th>Type</th>
<th>Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>Permanent Sign</td>
<td>$110.00 minimum fee, $55.00 per sign in excess of two signs</td>
</tr>
<tr>
<td>Portable Sign</td>
<td>$90.00</td>
</tr>
</tbody>
</table>
### Hamilton: 504,559

<table>
<thead>
<tr>
<th>Sign Type</th>
<th>Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ground Sign</td>
<td>$155.00 for sign area of less than or equal to 2.5 square metres</td>
</tr>
<tr>
<td>New Home Development Ground Sign</td>
<td>$259.00 for sign area greater than 2.5 square metres and 4.0 square</td>
</tr>
<tr>
<td></td>
<td>metres or less</td>
</tr>
<tr>
<td></td>
<td>$517.00 for sign area greater than 4.0 square metres</td>
</tr>
<tr>
<td>Awning, Canopy, Marquee, Parapet, Projecting and Wall Signs</td>
<td>$259.00</td>
</tr>
<tr>
<td>Billboard Sign</td>
<td>$517.00</td>
</tr>
<tr>
<td>Mobile Sign</td>
<td>$103.00 for 28 consecutive days</td>
</tr>
<tr>
<td></td>
<td>$67.00 for 14 consecutive days</td>
</tr>
<tr>
<td>Mobile Sign or Banner Advertising a Grand Opening or Closing Promotional Event</td>
<td>$155.00 for 7 consecutive days</td>
</tr>
<tr>
<td>Sidewalk Sign</td>
<td>$78.00 per year</td>
</tr>
<tr>
<td>Banner</td>
<td>$78.00 for 28 consecutive days</td>
</tr>
<tr>
<td>Inflatable Sign</td>
<td>$78.00 for 7 consecutive days</td>
</tr>
<tr>
<td>New Home Development Portable Sign</td>
<td>$52.00 per year</td>
</tr>
</tbody>
</table>

### Brampton: 433,806

<table>
<thead>
<tr>
<th>Sign Type</th>
<th>Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>Permanent Sign</td>
<td>$20.00 per square metre of sign area ($150.00 minimum fee)</td>
</tr>
<tr>
<td>Temporary Sign</td>
<td>$125.00 per permit</td>
</tr>
</tbody>
</table>

### London: 352,395

<table>
<thead>
<tr>
<th>Sign Type</th>
<th>Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>Permanent Sign</td>
<td>$14.00 per square metre of sign area ($60.00 minimum fee)</td>
</tr>
<tr>
<td>Temporary Sign</td>
<td>$27.50 per permit</td>
</tr>
<tr>
<td>Mobile Sign</td>
<td>$225.00 annually</td>
</tr>
</tbody>
</table>

### Markham: 261,573

<table>
<thead>
<tr>
<th>Sign Type</th>
<th>Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>Permanent Sign</td>
<td>$207.50</td>
</tr>
<tr>
<td>Billboard</td>
<td>$311.00</td>
</tr>
<tr>
<td>Mobile or Portable Sign</td>
<td>$52.00 for each seven day period of display</td>
</tr>
<tr>
<td>Election Sign</td>
<td>$207.50</td>
</tr>
<tr>
<td>Portable Sign in Special Sign District (Heritage)</td>
<td>$145.00</td>
</tr>
</tbody>
</table>

### Vaughan: 238,866

<table>
<thead>
<tr>
<th>Sign Type</th>
<th>Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>Permanent Sign</td>
<td>$150.00 plus $20.00 per square metre of sign area</td>
</tr>
<tr>
<td>Poster Panel</td>
<td>$150.00 plus $40.00 per square metre of sign area</td>
</tr>
<tr>
<td>Mobile Sign</td>
<td>$50.00 up to 15 day posting, $100.00 up to 30 day posting</td>
</tr>
<tr>
<td>A-Frame Sign</td>
<td>$150.00 per sign up to 6 months posting</td>
</tr>
</tbody>
</table>
### Windsor: 216,473

<table>
<thead>
<tr>
<th>Sign Type</th>
<th>Fee Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Permanent Sign</td>
<td>$3.60 per square metre of sign area ($75.00 minimum fee)</td>
</tr>
<tr>
<td>Temporary Sign</td>
<td>$2.00 per day for the first 10 days, $1.00 per day thereafter ($20.00 minimum fee)</td>
</tr>
</tbody>
</table>

### Oakville: 165,613

<table>
<thead>
<tr>
<th>Sign Type</th>
<th>Fee Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Permanent Sign</td>
<td>$200.00 up to 3.75 square metres</td>
</tr>
<tr>
<td></td>
<td>$400.00 over 3.75 square metres</td>
</tr>
<tr>
<td></td>
<td>$200.00 additional fee is sign encroaches onto Town property</td>
</tr>
<tr>
<td>Landscaping Sign</td>
<td>$100.00</td>
</tr>
<tr>
<td>Poster Sign</td>
<td>$100.00</td>
</tr>
<tr>
<td>Mobile or Portable Sign</td>
<td>$30.00 for each 15 day posting</td>
</tr>
<tr>
<td>Community Mobile Sign</td>
<td>$25.00 per week</td>
</tr>
<tr>
<td>Special Occasion Sign</td>
<td>$150.00 for 7 days</td>
</tr>
<tr>
<td>Inflatable Sign</td>
<td>$150.00 for 7 days</td>
</tr>
<tr>
<td>New Home Development Sign on Town Property</td>
<td>$120.00 per year</td>
</tr>
<tr>
<td>Signs Requiring the Approval of Town Council</td>
<td>$500.00 additional fee</td>
</tr>
<tr>
<td>Election Sign</td>
<td>$200.00 deposit per candidate</td>
</tr>
</tbody>
</table>

### Burlington: 164,415

<table>
<thead>
<tr>
<th>Sign Type</th>
<th>Fee Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Permanent Sign</td>
<td>$150.00 up to 2.5 square metres, $300.00 for sign of 2.5 to 8.0 square metres, $450.00 for sign over 8.0 square metres</td>
</tr>
<tr>
<td>Billboard Sign</td>
<td>$500.00</td>
</tr>
<tr>
<td>Temporary Sign</td>
<td>$45.00 per 15 day posting</td>
</tr>
</tbody>
</table>

### Richmond Hill: 162,704

<table>
<thead>
<tr>
<th>Sign Type</th>
<th>Fee Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Permanent Sign</td>
<td>$100.00</td>
</tr>
<tr>
<td>Temporary Sign</td>
<td>$1,00.00 for 45 consecutive days permit, $50.00 for charitable or non-profit organizations for a 14 consecutive days permit</td>
</tr>
<tr>
<td>Development Directional Ground Sign</td>
<td>$250.00</td>
</tr>
<tr>
<td>Sales Trailer Sign Package</td>
<td>$1,000.00 per trailer</td>
</tr>
<tr>
<td>Mural Sign</td>
<td>$160.00</td>
</tr>
</tbody>
</table>

### Sudbury: 157,857

<table>
<thead>
<tr>
<th>Sign Type</th>
<th>Fee Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Portable Sign</td>
<td>$41.00</td>
</tr>
<tr>
<td>Any Other Sign</td>
<td>$64.00 basic fee plus $0.50 for each square metre of sign area</td>
</tr>
</tbody>
</table>
The foregoing shows that sign permit fees vary widely among the municipalities reviewed both with respect the amount of the fee and the number of different sign permit fees. This is to be expected as each municipality differs in its approach to user fees and the costing of its administrative services associated with signs when setting fees. Hamilton’s sign permit fees fall within the range of fees applied in other municipalities.

3. **Approaches to Agricultural Signage**

The following provides an overview on approaches to signs that provide directions to farms selling produce to the public. 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.

Such directional signage can be located within the public right-of-way or on private property. The sign by-law would permit off-site directional signage within rural and agricultural areas with specific standards applicable to such signs in terms of location and size.

The City of Ottawa has the largest agricultural community of all major Canadian cities. In response to requests from the agricultural community for more flexible directional signage, the City of Ottawa amended its sign and right-of-way by-laws to provide for a comprehensive program of directional signage for farm based businesses. Ottawa is a very good example of what a municipality can do to meet the signage needs of the agricultural community.

Ottawa’s agricultural signage program provides for four types of signs to help the public locate farm based businesses:

- Permanent directional signs in the right-of-way;
- Permanent off-site directional signs on private property;
- Greater flexibility for temporary signs for in the right-of-way;
- Greater flexibility for temporary signs on private property.

Ottawa’s agricultural signage initiative provides City sanctioned signage that assists the public in locating farm based businesses in rural areas. In addition, the program addresses the proliferation of illegal signs along rural roads by providing signage alternatives in City by-laws.

**A. Agricultural Signs in the Right-of-Way**

The Ottawa program allows permanent directional farm signs to be erected in the public right-of-way, similar to the Province’s Tourist Orientation Destination Signs (TODS) that provide way finding to specific destinations along provincial highways.

The City of Ottawa signs are similar to the TODS signs. They contain the City’s logo, and space for three directional sign panels. These display the farm based business’ logo with distance and direction indicators. A slide in section is provided below the panel to allow the farm based business to insert changeable messages such as open/closed or the seasonal produce available for sale.

These signs must be located within a 12 km radius of the farm or farmers’ market to which it applies.

The manufacturing, installation and maintenance costs of these permanent signs are the responsibility of the farm based business. A permit for such a directional farm sign is valid for five years from issuance.
The City of Ottawa also permits temporary A-Frame signs in the right-of-way subject to location requirements and limited periods of display.

B. Agricultural Signs on Private Property

The City of Ottawa like many municipalities, allows identification signs on the farm property. Ottawa also allows permanent signs to be installed off-premise on private property to provide direction to the farm based business. These signs are only available to a farm business that is registered pursuant to the Farm Registration and Farm Organizations Funding Act.

The City of Ottawa exempts such directional signs from obtaining a sign permit provided the sign is less than four square metres in area. The off-site directional sign may be located up to 12 km radius from the farm and cannot exceed four square metres in area and a maximum height of three metres. The directional sign shall be a minimum of 150 metres from another directional sign and at least 30 metres from a ground sign.

Temporary signs on private property can be displayed only for the duration of the season for the sale of farm produce.

C. Bill 98

The Province of Ontario in 2008 passed Bill 98, an Act to promote the sale of Ontario produced agricultural products. The Act amended the Public Transportation and Highway Improvement Act to permit the display of signs displaying information about the sale of agricultural products on private property within 400 metres of a highway without the need to obtain a permit from the Ministry of Transportation.

Bill 98 provides for signs on the premises where the produce is grown and sold, as well as off-site directional signs. In each case, such signs can only be located on private property.

The maximum area of such directional signs is 122 cm by 122 cm. The signs display directions to a place where agricultural products produced in Ontario are offered for sale. The signs must be displayed on a property zoned for agricultural purposes. The directional signs can be displayed only during the season when the agricultural products are offered for sale.

4. Electronic and Video Display Technology in Signs

As electronic display technology evolves and advances, it is increasingly finding its way into signs. This trend can challenge municipalities seeking to address the associated issues since frequently their sign by-laws were drafted when such technology either did not exist or was not used in signs.

Traditionally signs have been static objects displaying one message at a time. The sign copy could only be changed by physically removing the sign face and replacing it with a new sign face with a different message.

An early form of changeable sign copy took the form of a readograph which is a portion of a sign containing tracks which allow for lettering to be physically changed on the sign.
The first application of electronic display technology to changeable messages took the form of electronic time and temperature displays incorporated into a sign. The advent of Light Emitting Diodes (LEDs) allowed for text based messages to change electronically. In some cases, simple graphics could also be displayed electronically on the sign.

Sign by-laws generally regulate this type of electronic display technology as an electronic message board or readograph. Some municipalities regulate the amount of time the electronic message must be displayed as static copy to control the degree of animation in the sign.

Some municipal sign by-laws specifically address animated signs which may include signs that physically move or rotate as well as signs containing an electronic or video screen. Municipal sign by-laws vary in their approach to such signs ranging from prohibition of animated signs to specific regulations regarding the size, location and operation of such signs. In other cases, municipalities that define a flashing sign as a sign with lights that vary in intensity or colour may consider video screens to be flashing signs.

The Hamilton sign by-law 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." Hamilton By-law 06-243 prohibits a flashing or animated sign.

In recent years advances in LED and LCD technology have made large size screens technically and economically feasible to incorporate into signs. The outdoor advertising sign industry has been the earliest adopter of this display technology in billboard signs. These screens are able to display high quality digital content on signs in the form of colour text, graphics, images or full video. As a result, any electronic image or content displayed on a television or computer monitor can be displayed on a sign containing an electronic display screen.

Signs with this screen technology display high definition images and video content that changes rapidly and in real time. Copy can be controlled electronically from a remote location, allowing for numerous changes in sign copy in a 24 hour period.

The arrival of electronic display screens in signs has raised several issues in connection with the impact of signs containing this technology. These issues include concerns about potential driver distraction created by the sign's animation and the effect on traffic and pedestrian safety, the brightness of such signs and the effect on its surroundings, the impact of such signs on the character of spaces, and determining appropriate areas to locate this type of sign.

Few municipal sign by-laws explicitly address this new type of sign technology. This is partially because of the age of their sign by-law or because such signs are not yet being proposed or erected in their communities.

Some municipalities rely on existing animated and flashing sign regulations to address this type of sign. Municipalities often prohibit animated or flashing signs and this would usually preclude the erection of
these types of electronic screens and digital display technology in signs. However the by-law wording for these types of signs may create confusion regarding its applicability to electronic displays.

The greatest pressure for digital display screens in signs is in large municipalities. The large outdoor advertising market in these cities represents a major advertising opportunity for sign companies since a billboard with this technology can display a greater amount of advertising copy on in comparison to a traditional billboard with static unchangeable copy. Billboards containing electronic display screens typically change the advertising copy every few seconds depending on the rate of image change chosen by the operator. This allows for thousands of different messages and sign copy to be displayed on one sign.

Toronto has the greatest number of signs containing electronic displays in southern Ontario. The highest concentration of such signs is found in Toronto’s downtown specifically in the area of Yonge – Dundas Square. Billboard signs with large electronic displays are also located adjacent to the Gardiner Expressway.

Municipal 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. Considerations in developing sign controls for electronic display signs include:

- Whether electronic and video displays should be permitted in signs;
- If permitted, the types of sign regulations and standards that are appropriate including:
  - Areas of the municipality where such signs are permitted having regard for road safety, separation from sensitive uses, and the impact of such sign types on the character of an area;
  - Size, height and distribution of such signs including separation between signs with electronic displays;
  - Controlling the level of sign illumination;
  - Regulating the hours of sign operation;
  - Regulating the time of the interval between successive displays;
  - Specifying a minimum duration time for the message displayed;
  - Regulating the extent to which visual effects are permitted including in the transition between messages;
  - Regulating the extent to which the message consists of a sequence of individual message segments;
  - Other considerations that address local circumstances.

Major North American cities have begun to amend their sign by-laws to address electronic and video display signs. The types of controls adopted for electronic display signs include:

- Prohibition of electronic display signs;
• Limiting electronic display signs to specific parts of the city, usually the downtown or an entertainment district;

• Prohibiting electronic display signs in the vicinity of roads or highways in the interest of road safety;

• Requiring a separation distance between electronic display signs;

• Limiting the number of electronic display signs permitted in the municipality;

• Controlling the size of the display, the level of illumination, the rate at which the sign copy changes, the types of animation effects and the time interval between copy changes.

The foregoing is a summary of the controls various cities have adopted for electronic display signs. The approaches and issues addressed vary in each city and reflect local conditions and priorities.

5. **Hamilton Sign By-law Comparative Commentary**

Hamilton Sign By-law 06-243 was compared with the sign by-laws of Ontario municipalities with a population of 150,000 or more persons. The purpose was to determine in a general manner how the Hamilton Sign By-law compared with the sign by-laws of these other municipalities with respect to approach to sign issues, types of signs regulated, sign standard and other provisions.

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.

By-law 06-243 contains similar provisions with respect to matters of by-law administration and enforcement as are found in the sign by-laws of other municipalities.

With the exception of Toronto, London, and Vaughan, the sign by-laws of the other municipalities were enacted between 2002 and 2007. The Hamilton Sign By-law was passed in 2006 making it one of the most recently enacted and up to date sign by-laws of the 14 municipalities reviewed.

By-law 06-243 is consistent with the legal principles and cases applicable to municipal sign by-laws.
CITY OF HAMILTON

BY-LAW NO. 06-243

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

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

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

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

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

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

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

AND WHEREAS subsection 63(1) of the Municipal Act, 2001, S.O. 2001, c. 25, authorizes the City of Hamilton, if it passes a by-law for prohibiting or regulating the placing of an object on a highway, to provide for the removal of any object placed on a highway in contravention of that by-law;
AND WHEREAS subsection 99.3 of the Municipal Act, 2001, S.O. 2001, c. 25, authorizes the City of Hamilton to enter land and pull down or remove an advertising device, at the expense of the owner of the advertising device, if it is erected, located, or displayed in contravention of a by-law respecting advertising devices, including signs;

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

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

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

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

PART 1.0

TITLE, SCOPE AND INTENT OF SIGN BY-LAW

1.1 TITLE

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

1.2 SCOPE

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

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

1.2.3 All signs and advertising devices located on public and private Property within the geographic boundaries of the City of Hamilton are subject to the provisions of this By-law.
1.2.4 This By-law does not apply to signs erected, located, or displayed, or caused to be erected, located, or displayed by federal, provincial or municipal governments, the Conservation Authorities or a local board as defined in the Municipal Act, 2001, including, but not limited to, signs designating a public library, a public community centre, a public arena, signs required by the City of Hamilton to inform the public of planning applications submitted under the Planning Act and TODs signs.

1.2.5 Notwithstanding subsection 1.2.4, the applicable regulations under this By-law for Ground Signs or Wall Signs shall apply to signs that function as Ground Signs or Wall Signs.

1.3 INTENT

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

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

PART 2.0 DEFINITIONS

In this By-law:

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

"Animated Sign" means a video screen or any flashing, kinetic, or illusionary motion of all or any part of a Sign and includes a rotating Sign but does not include an Electronic Message Display.
“Authorized Sign” means any Sign placed or erected on a highway under the authority of By-law 01-215, the City of Hamilton Traffic By-law, for the purpose of regulating, warning or guiding traffic.

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

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

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

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

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

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

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

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

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

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

“Construction Information Sign” means a Sign which identifies or provides information relating to or advertising the development or the construction of a
building on the Property on which the Sign is erected, located, or displayed but does not include a New Home Development Ground Sign.

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

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

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

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

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

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

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

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

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

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

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

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

“Home Occupation Sign” means a Sign identifying a home occupation as defined in the zoning by-laws of the City of Hamilton.
“Height” means the vertical distance measured from the average elevation of the Grade immediately below a Sign to the highest point of the Sign and includes any support structure or ornamental feature.

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

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

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

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

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

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

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

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

“Official Sign” means any Sign required by a federal or provincial statute or regulation or by a municipal by-law and shall include a traffic sign, street name sign and a permanent sign erected, located, or displayed on a Street to inform the public of the location of Business Improvement Areas, public buildings, hospitals, public libraries, institutions, places of worship, parks, recreational or educational facilities.
“Open House Directional Sign” means a temporary portable sign intended to direct traffic to a residence for sale or lease, but does not include a New Home Development Portable Sign.

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

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

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

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

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

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

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

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

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

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

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

“Roof Sign” means a Sign supported entirely or partly by the roof of a building or structure which projects above the roof and parapet or is erected, located or displayed on a sloped roof.
“Sidewalk Sign” means a freestanding Sign which is typically shaped like an “A” or a “T” and has one or two sign faces.

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

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

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

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

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

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

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

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

“Vacant” means a Property separately assessed that does not have any building or any occupied building thereon.
“Validation Marker” means an attachment issued by the City of Hamilton signifying the issuance of a valid Sign permit.

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

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

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

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

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

PART 3.0
INTERPRETATION AND ADMINISTRATION

3.1 Interpretation

3.1.1 Words importing the singular number or the masculine gender only include more Persons, parties or things of the same kind than one, and females as well as males and the converse.

3.1.2 A word interpreted in the singular number has a corresponding meaning when used in the plural.

3.1.3 The word “shall” is mandatory and the word “may” is permissive.

3.2 Administration

3.2.1 The Designated Official shall be responsible for the administration and enforcement of this By-law on all public and private Property within the geographic boundaries of the City of Hamilton.

3.2.2 The Designated Official may enter upon any Property at any reasonable time to inspect a Sign for the purpose of determining or affecting its compliance with this By-law.
3.3 Permits

3.3.1 Every Person erecting, locating or displaying a Sign within the City of Hamilton, with the exception of a Sign listed in Schedule “B”, shall apply for and obtain a permit.

3.3.2 Every Person applying for a Sign permit shall provide to the Designated Official:
   (a) a completed application form as prescribed by the City of Hamilton;
   (b) all plans, drawings and other materials as required by the City of Hamilton;
   (c) the written authorisation of the Owner where the Person applying for the Sign permit is not also the Owner of the Property where the Sign will be erected, located, or displayed; and,
   (d) where applicable, proof of approval for the proposed Sign from all governmental authorities having jurisdiction.

3.3.3 An application for a Sign permit shall be accompanied by plans and drawings that contain the following information:

   (a) a key map showing the location of the Property on which the proposed Sign is to be located and the nearest major Street intersection;
   (b) a site plan showing the Property where the Sign is to be erected, located, or displayed, drawn to scale showing the dimensions of all Property Lines, existing or proposed buildings, location of proposed Signs, and location of all existing Signs on the same Property;
   (c) drawings and specifications of the Sign drawn to scale and showing sections and elevations of the Sign to be erected, located, or displayed, construction details, supporting framework, foundations, materials, illumination details, Height of Sign, Sign Area, length and Width of Sign; and,
   (d) sufficient information for the Chief Building Official to determine that the Sign has been designed and will be constructed in compliance with the applicable structural and fire prevention provisions of the Ontario Building Code.

3.3.4 The Chief Building Official may require the certification by a Registered Professional Engineer of all plans and specifications covering the erection of the Sign and supporting framework with respect to the structural adequacy of the Sign.

3.3.5 The application of the Ontario Building Code to any sign permit application will be considered by the City and where the City determines that the Ontario Building Code applies to a Sign, any sign permit issued pursuant to this By-law will be deemed to satisfy the requirements for a building permit under the Ontario Building Code Act.

3.3.8 If required, a Person shall obtain approval for the proposed Sign from other governmental authorities having jurisdiction.
3.4 Sign Permit Refusal, Expiry, or Renewal

3.4.1 A permit may be refused if the proposed Sign does not comply with this By-law, any other By-law or federal or provincial statute or regulation.

3.4.2 A Billboard, Awning Sign, Canopy Sign, Ground Sign, Marquee Sign, New Home Development Ground Sign, Parapet Sign, Projecting Sign, or Wall Sign permit issued by the City of Hamilton shall expire six months from the date of issuance unless the Sign is erected, located, or displayed for its intended purpose and a permit shall expire upon the removal of the Sign.

3.4.3 Where a Billboard, Awning Sign, Canopy Sign, Ground Sign, Marquee Sign, New Home Development Ground Sign, Parapet Sign, Projecting Sign or Wall Sign permit has been issued and before it has expired, an application may be made to extend the permit for a further six months, provided the Sign continues to conform to all By-law requirements and federal or provincial statutory or regulatory requirements existing at the time of renewal.

3.4.4 The City of Hamilton may revoke a permit under the following circumstances:

(a) the City of Hamilton issued the permit in error;
(b) the Sign does not comply with this By-law or any other by-law, the Ontario Building Code, or any federal or provincial statute or regulation;
(c) the City of Hamilton issued the permit as the result of false, mistaken, incorrect, or misleading statements, information, or undertakings on the application;
(d) the erection, location, or display of the Sign has not commenced within six months after the issuance of the permit;
(e) the erection, location or display of the Sign, in the opinion of the Designated Official, has been substantially suspended or discontinued for a period of more than one calendar year;
(f) the permit holder requests in writing that the permit be revoked; or
(g) the business, product, activity or service to which the Sign relates ceases to operate or is no longer available.

3.5 Existing Signs

3.5.1 Any Sign that is lawfully erected, located, or displayed on the day this By-law comes into force may continue to be erected, located, or displayed provided it is not substantially altered in a manner that would bring it into non-compliance or increase its non-compliance with this By-law. Anything done to preserve the condition of a
Sign or to prevent the deterioration of a Sign, including the restoration of a Sign by removing or replacing worn out, missing, damaged or broken parts, or a change in the message or Copy displayed by the Sign does not in itself constitute a substantial alteration.

3.6 Refunds

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

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

3.6.2 There shall be no refund where:

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

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

PART 4.0
GENERAL PROHIBITIONS AND REGULATIONS

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

(a) for which a permit has not been obtained, if a permit is required under this By-law;
(b) which is not in compliance with this By-law or the conditions of any variance granted under this By-law;
(c) listed in Schedule “B” which is not in compliance with any regulation listed in the Schedule for that sign type;
4.2 A Person shall be deemed to be erecting, locating, or displaying a Sign if that Person is the Sign Owner and directs, permits or fails to stop the erection, location, or display of the Sign.

PART 5.0
REGULATIONS FOR PARTICULAR TYPES OF SIGNS

5.1 Prohibited Signs

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

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

5.1.2 Where a Sign is not expressly permitted by this By-law, it shall be deemed to be prohibited.
5.1.3 Where a type of Sign is not specifically permitted within a particular Zone or on a Property with a particular zoned use under Schedule "C", it shall be deemed to be prohibited within that Zone or on that Property.

5.1.4 Notwithstanding subsections 5.1.2 and 5.1.3 and subject to the approval of Council, Signs on Street Furniture erected, located or displayed pursuant to an agreement with the City of Hamilton are permitted.

5.2 Ground Signs

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

5.2.2 No Ground Sign shall be erected, located or displayed except a Ground Sign embedded in a foundation in the ground to a depth of at least 1.2 metres.

5.2.3 No Ground Sign shall be erected, located or displayed in a commercial or industrial Zone without displaying on the top or bottom the municipal address number of the Property on which the Ground Sign is erected, located, or displayed in numerals that are a minimum height of 15.0 centimetres.

5.2.4 No Ground Sign shall be erected, located, or displayed within 15.0 metres of a traffic signal or traffic control device.

5.2.5 No Ground Sign shall be erected, located, or displayed within 1.5 metres or a distance equal to 75% of the Height of the Ground Sign, whichever is greater, from any Property Line.

5.2.6 The maximum total Sign Area for a Ground Sign that is double faced or multi-faced Sign shall be double the maximum Sign Area permitted for one sign face.

5.2.7 The sign face of a Ground Sign may allocate a maximum 50% of the sign face to a Readograph or Electronic Message Display.

5.2.8 No message displayed on an Electronic Message Display on a Ground Sign shall be displayed for less than three (3) seconds, during which there shall be no movement or change in colour or intensity of illumination.

5.2.9 A Ground Sign shall be erected, located, or displayed along the same Street Frontage used to calculate the maximum Sign Area of the Ground Sign.
5.2.10 Where more than one Ground Sign is erected, located, or displayed parallel to a Street Frontage, no Ground Sign shall be erected, located, or displayed within 200.0 metres of another Ground Sign on the same Property.

5.2.11 A Ground Sign shall be permitted in all zones except where the use of the property is for one or more of the following uses:
   (a) A Single Detached Dwelling;
   (b) A Semi Detached Dwelling;
   (c) A Duplex;
   (d) A Triplex;
   (e) A Fourplex or Quadruplex;
   (f) A Street townhouse;
   (g) A Mobile Home;
   (h) A Residential Care Facility for 6 or less residents;
   (i) A Lodging House for 6 or less lodgers;
   (j) A Retirement Home for 6 or less residents; or
   (k) An Emergency Shelter for 6 or less residents.

5.2.12 Where a Property on which a Billboard is erected, located, or displayed ceases to be Vacant or undeveloped and the Billboard has not been removed, no Ground Sign shall be erected, located, or displayed on the Property.

5.3 Wall Signs and Parapet Signs

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

   5.3.2 No Wall Sign or Parapet Sign shall extend beyond the extremity of the wall Facade on which it is erected, located, or displayed.

   5.3.3 No Wall Sign or Parapet Sign shall project more than 60 centimetres from the wall to which it is attached.

   5.3.4 No Wall Sign or Parapet Sign erected, located, or displayed on a building above a location where the public passes shall be erected, located, or displayed less than 2.5 metres above the Grade below the Wall Sign or Parapet Sign.

   5.3.5 No Wall Sign or Parapet Sign shall be erected, located, or displayed unless it is parallel to the wall to which it is attached.
5.3.6 No Wall Sign shall be erected, located or displayed unless it is on the same building Facade used to calculate the maximum Sign Area of the Wall Sign.

5.3.7 The sign face of a Wall Sign may be a Read-o-graph or Electronic Message Display.

5.3.8 No message displayed on an Electronic Message Display on a Wall Sign shall be displayed for less than three (3) seconds, during which there shall be no movement or change in colour or intensity of illumination.

5.3.9 No Parapet Sign shall be erected, located or displayed unless it is on the same building Façade used to calculate the maximum Sign Area of the Parapet Sign.

5.3.10 In a multi-occupant building the area of a Wall Sign for tenants shall be in direct proportion to the linear distance each occupant controls on the applicable Facade.

5.3.11 A Parapet Sign shall consist only of a business’s logo or name.

5.3.12 A Wall Sign or a Parapet Sign shall be permitted in all zones except where the use of the property is for one or more of the following uses:
   (a) A Single Detached Dwelling;
   (b) A Semi Detached Dwelling;
   (c) A Duplex;
   (d) A Triplex;
   (e) A Fourplex or Quadruplex;
   (f) A Street townhouse;
   (g) A Mobile Home
   (h) A Residential Care Facility for 6 or less residents;
   (i) A Lodging House for 6 or less lodgers;
   (j) A Retirement Home for 6 or less residents; or
   (k) An Emergency Shelter for 6 or less residents.

5.4 Projecting Signs

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

5.4.2 The Owner of Property where a Projecting Sign is erected, located, or displayed that overhangs a public right of way under the jurisdiction of the City of Hamilton shall enter into an encroachment agreement with the City of Hamilton and shall satisfy the City of Hamilton’s requirements for liability insurance.
5.4.3 No portion of a Projecting Sign shall be less than 2.5 metres above the Grade below the Projecting Sign.

5.4.4 The sign face of a Projecting Sign may be a Read-o-graph or Electronic Message Display.

5.4.5 No message displayed on an Electronic Message Display on a Projecting Sign shall be displayed for less than three (3) seconds, during which there shall be no movement or change in colour or intensity of illumination.

5.5 **Awning Signs, Canopy Signs and Marquee Signs**

5.5.1 No Person shall erect, locate, or display an Awning Sign, Canopy Sign or Marquee Sign except in accordance the applicable regulations under Schedule “C”, the applicable general regulations under this By-law, and the specific regulations under this section of the By-law.

5.5.2 No Awning Sign, Canopy Sign or Marquee Sign erected, located, or displayed on a building above a location where the public passes shall be erected, located, or displayed less than 2.5 metres above the Grade below the Awning Sign, Canopy Sign or Marquee Sign.

5.5.3 An Awning Sign, Canopy Sign or Marquee Sign shall be permitted in all zones except where the use of the property is for one or more of the following uses:

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

5.6 **Mobile Signs**

5.6.1 No Person shall erect, locate, or display a Mobile Sign except in accordance with the applicable regulations under Schedule “C”, the applicable general regulations under this By-law, and the specific regulations under this section of the By-law.
5.6.2 A permit for a Mobile Sign shall be valid for a period of fourteen (14) consecutive days.

5.6.3 No more than six (6) Mobile Sign permits shall be issued for a single business at a single Property in a calendar year for a total calendar year allotment of twelve (12) weeks.

5.6.4 The maximum display period for a Mobile Sign shall be twenty-eight (28) consecutive days, being two (2) permit periods.

5.6.5 Where one (1) permit for a Mobile Sign has been issued for a Property for a display period of fourteen (14) consecutive days, being one (1) permit period, no subsequent permit for the Property shall be issued until at least fourteen (14) days have elapsed from the date of expiry of the previous permit.

5.6.6 Where two (2) permits for a Mobile Sign has been issued for a Property for a display period of twenty-eight (28) consecutive days, being two (2) permit periods, no subsequent permit for the Property shall be issued until at least fourteen (14) days have elapsed from the date of expiry of the previous permit.

5.6.7 Where there are two (2) Mobile Signs on a Property, each shall comply with subsection 5.6.5 or 5.6.6.

5.6.8 A Mobile Sign shall have a maximum of two sign faces and a separate permit shall be required for each sign face if they relate to different businesses. The applicable permit fee under Schedule “A” shall be paid for each permit.

5.6.9 An application for a Mobile Sign permit shall be submitted no earlier than twenty-eight (28) days prior to the intended date the permit comes into effect.

5.6.10 Applications for Mobile Sign permits on a Property shall be processed by the City of Hamilton in the order of receipt, and in the event that applications are submitted simultaneously and insufficient opportunities exist for the display of a Mobile Sign, priority for a permit shall be established by means of a draw conducted by the Designated Official.

5.6.11 A Mobile Sign shall be erected, located, or displayed entirely on private Property and only in the front or exterior side yard of a Property.

5.6.12 No Mobile Sign shall be erected, located, or displayed on a Vacant Property.

5.6.13 No Mobile Sign shall be erected, located, or displayed except on the Property where the business or activity being advertised on the Mobile Sign is located.
5.6.14 No Mobile Sign shall exceed a maximum area of 4.5 m² per sign face for a commercial or industrial use and 1.8 m² for an institutional use.

5.6.15 No Mobile Sign shall exceed 2.7 metres in Height.

5.6.16 No Mobile Sign shall be greater than 2.5 metres in any linear dimension.

5.6.17 No more than two (2) Mobile Signs shall be erected, located, or displayed on a Property at any one time.

5.6.18 Where more than one (1) Mobile Sign is erected, located or displayed on the same Property, they shall be separated by a distance of at least 50.0 metres.

5.6.19 No Mobile Sign shall be erected, located, or displayed within:
(a) 10.0 metres of a Ground Sign on the same Property;
(b) 15.0 metres of an intersection or traffic signal or traffic control device;
(c) 3.0 metres of a Driveway Line;
(d) 3.0 metres of side Property Line;
(e) 1.5 metres of a Street Line;
(f) any parking space required under the zoning by-laws of the City of Hamilton; or,
(g) 15.0 metres of a property used solely for residential purposes.

5.6.20 A Mobile Sign shall display the name and telephone number of the Sign Owner in a clearly visible location.

5.6.21 A Mobile Sign shall display a Validation Marker in a clearly visible location.

5.6.22 No Mobile Sign shall be illuminated or animated, nor shall any Mobile Sign create noise or motion.

5.6.23 The Copy and message board of the Mobile Sign shall be only black on white or white on black, provided that:
(a) one line of letters or numbers no more than 30 centimetres in height may be a single colour other than black or white; and,
(b) graphics or business logos totalling a maximum of 10% of the Sign Area may be any colour or combination of colours.

5.6.24 Subsection 5.6.23 shall not come into effect until one year after the passage and enactment of this By-law.

5.6.25 A Mobile Sign shall be permitted in all zones except where the use of the property is for one or more of the following uses:
(a) A Single Detached Dwelling;
(b) A Semi Detached Dwelling;
(c) A Duplex;
(d) A Triplex;
(e) A Fourplex or Quadruplex;
(f) A Street townhouse;
(g) A Mobile Home
(h) A Residential Care Facility for 6 or less residents;
(i) A Lodging House for 6 or less lodgers;
(j) A Retirement Home for 6 or less residents; or
(k) An Emergency Shelter for 6 or less residents.

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

5.6.27 Notwithstanding subsections 5.6.17 and 5.6.18, and subject to the other requirements for Mobile Signs in this By-law, one Mobile Sign, advertising a grand opening or closing promotional event, may be erected, located or displayed on a Property for seven (7) consecutive days, provided that:
(a) the Mobile Sign shall advertise a grand opening or closing promotional event for any business only once;
(b) where the Mobile Sign advertises a grand opening or closing promotional event for a business, a Banner shall not also advertise that grand opening or closing promotional event; and,
(c) there is no Mobile Sign permit otherwise available under this section for the Property.

5.7 Banners

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

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

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

5.7.4 No Banner advertising a special event shall be erected, located, or displayed on fencing adjacent to a Street unless the special event is organized by a Charity or Community Organization and the Charity or Community Organization has obtained the permission of the Owner of the Property on which the fence is located.
5.7.5 Notwithstanding subsection 5.7.3, and subject to the other requirements for Banners in this By-law, one Banner, advertising a grand opening or closing promotional event, may be erected, located or displayed on a Property for seven (7) consecutive days, provided that:

(a) the Banner shall advertise a grand opening or closing promotional event for a business only once;
(b) where the Banner advertises a grand opening or closing promotional event for a business, a Mobile Sign shall not also advertise that grand opening or closing promotional event; and
(c) the Banner is attached only to a wall of the building containing the business or only to a Ground Sign.

5.8 Sidewalk Signs

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

5.8.2 No Sidewalk Sign shall be more than 0.6 metres in Width or 0.8 metres in Height.

5.8.3 No Sidewalk Sign shall be permanently secured to the ground, any structure or tree.

5.8.4 Where a Sidewalk Sign is erected, located, or displayed on private Property, it shall be erected, located, or displayed against the front wall of the business it is advertising.

5.8.5 No Sidewalk Sign shall be erected, located, located or displayed on public Property except on a public sidewalk.

5.8.6 Where a Sidewalk Sign is erected, located, or displayed on a public sidewalk, it shall be erected, located, or displayed adjacent to the curb opposite or against the front wall of the business it is advertising provided there is a minimum 1.5 metres of unobstructed sidewalk and the Sidewalk Sign does not encroach on any Urban Braille System.

5.8.7 No Person shall erect, display or locate a Sidewalk Sign on a public sidewalk except during the hours of operation of the business the Sidewalk Sign is advertising.
5.8.8 No Sidewalk Sign shall be erected, located, or displayed on a public sidewalk without a permit issued by the City of Hamilton and the permit shall be valid for one (1) calendar year.

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

5.9 Inflatable Signs

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

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

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

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

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

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

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

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

5.10 New Home Development Ground Signs

5.10.1 No Person shall erect, locate, or display a New Home Development Ground Sign except in accordance with the applicable regulations under Schedule “C”, the
applicable general regulations under this By-law, and the specific regulations under this section of the By-law.

5.10.2 No New Home Development Ground Sign shall be permitted to be erected, located, or displayed unless draft plan approval has been granted to the plan of subdivision it advertises.

5.10.3 No New Home Development Ground Sign shall be erected, located, or displayed within 5.0 metres of any Property Line.

5.10.4 No New Home Development Ground Sign shall erected, located or displayed except on Vacant Property.

5.10.5 No more than two (2) New Home Development Ground Signs may be erected, located, or displayed in a subdivision and no more than two (2) New Home Development Ground Signs may be erected, located, or displayed outside the subdivision on private Property with the approval of the Owner of the Property.

5.10.6 No New Home Development Ground Sign shall exceed a maximum Sign Area of 18.0 m².

5.10.7 In addition to a New Home Development Ground Sign, a maximum of one (1) model home Sign for each model home may be erected, located, or displayed within a subdivision provided the model home Sign does not exceed a maximum Sign Area of 3.0 m².

5.10.8 A New Home Development Ground Sign shall be removed twenty-eight (28) days after the date that the sale of homes in the subdivision has ended.

5.11 New Home Development Portable Signs

5.11.1 No Person shall erect, locate, or display a New Home Development Portable Sign except in accordance with the applicable regulations under Schedule “C”, the applicable general regulations under this By-law, and the specific regulations under this section of the By-law.

5.11.2 No New Home Development Portable Sign shall be erected, located, or displayed on the untravelled portion of a Street except in accordance with the following regulations:

(a) the Sign Area of the New Home Development Portable Sign shall not exceed 1.2 m²;
5.12 **Poster**

5.12.1 No Person shall erect, locate, or display a Poster except in accordance with Schedule “B” and the general regulations applicable under this By-law.
5.12.2 Notwithstanding Schedule “B” and any general regulations applicable under this By-law, the City of Hamilton may remove and dispose of Posters without notice or compensation to any person.

5.13 Election Signs

5.13.1 No Person shall erect, locate, or display an Election Sign except in accordance with the applicable regulations under Schedule “B”, the applicable general regulations under this By-law, and the specific regulations under this section of the By-law.

5.13.2 The maximum size of an Election Sign is 1.5 m² for each sign face.

5.13.3 No Person or his agent shall erect, locate, or display an Election Sign unless it is erected, located, or displayed on private Property, except as a Poster subject to all of the regulations regarding Posters in this By-law and to subsections 5.13.4, 5.13.5, and 5.13.7.

5.13.4 No Election Sign associated with a federal or provincial election shall be erected, located, or displayed earlier than the date the writ of election is issued, with the exception of signage at a Campaign Office.

5.13.5 No Election Sign associated with a municipal election shall be erected, located, or displayed earlier than twenty-eight (28) days prior to voting day, with the exception of signage at a Campaign Office.

5.13.6 Any Sign used by a candidate during an election that is larger than an Election Sign shall comply with the regulations of this By-law with respect to permits, structure, location, dimensions, and characteristics.

5.13.7 All Election Signs shall be removed no later than three (3) days after the voting day of the election for which the Sign was erected, located, or displayed. For the purpose of this subsection, the candidate shall be responsible for the removal of the Election Signs.

5.14 Billboards

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

(a) the Billboard shall not be erected, located, or displayed within 400.0 metres of the right of way of Highway 403, the Queen Elizabeth Way, the Lincoln M. Alexander Parkway, or the Red Hill Creek Expressway;
(b) the Billboard shall not be erected, located, or displayed on a Property within the Downtown Community Improvement Project Area;
(c) the Billboard shall not be erected, located, or displayed less than 300.0 metres from another Billboard;
(d) the Billboard shall not be erected, located, or displayed less than 300.0 metres from any residentially Zoned Property;
(e) the Billboard shall not be animated;
(f) the Sign Area of a Billboard shall not exceed 18.0 m²;
(g) the Height of a Billboard shall not exceed 12.0 metres;
(h) the Width of a Billboard shall not exceed 4.0 metres; and,
(i) the Billboard shall be erected, located, or displayed on Vacant, undeveloped Property Zoned commercial or industrial.

5.14.3 Where a Property on which a Billboard is erected, located, or displayed ceases to be Vacant or undeveloped, the Sign Owner shall remove the Billboard from the Property.

PART 6.0
VARIANCES

6.1 Any Person may apply for a variance from this By-law or any provision thereof.

6.2 An application for variance shall be made on the form prescribed by the City of Hamilton and shall be accompanied by the applicable fee, as set out in Schedule "A".

6.3 Variances may be authorized by the Director of Development and Real Estate or his designate.

6.4 The City of Hamilton may authorize a variance if in its opinion the general intent and purpose of the By-law are maintained.

6.5 In considering an application for a variance, the City of Hamilton shall have regard for:

(a) special circumstances or conditions applying to the land, building or use referred to in the application;
(b) whether strict application of the provisions of this By-law in the context of the special circumstances applying to the land, building or use, would result in practical difficulties or unnecessary and unusual hardship for the applicant, inconsistent with the general intent and purpose of this By-law;

(c) whether such special circumstances or conditions are pre-existing and not created by the Sign Owner or applicant; and

(d) whether the Sign that is the subject of the variance will alter the essential character of the area in which the Sign will be located.

6.6 An applicant may appeal the variance application decision of the Director of Development and Real Estate to the Planning and Economic Development Committee.

6.7 The City Clerk shall notify the applicant once a hearing date before the Planning and Economic Development Committee has been fixed and if the applicant does not attend at the appointed time and place, the Committee may proceed in the absence of the applicant and the applicant shall not be entitled to further notice in the proceeding.

6.8 Council may uphold or vary the recommendations of the Planning and Economic Development Committee or do any act or make any decision that it might have done had it conducted the hearing itself and the applicant shall not be entitled to a further hearing on the matter before Council and the decision of Council shall be final.

PART 7.0
PENALTIES AND ENFORCEMENT

7.1 Every Person who contravenes any provision of this By-law is guilty of an offence. Pursuant to the provisions of the Provincial Offences Act, upon conviction a Person is liable to a fine of not more than $5,000.00 exclusive of costs.

7.2 Where a Person has been convicted of an offence, the court in which the conviction has been entered and any court of competent jurisdiction thereafter may, in addition to any other remedy or penalty provided for by law, make an order prohibiting the continuation or repetition of the offence by the Person convicted.

7.3 Where a Sign is erected, located, or displayed on, over, partly on, or partly over, Property owned by or under the jurisdiction of the City of Hamilton and not in accordance with the regulations of this By-law, the Sign may be removed immediately by the City of Hamilton without notice or compensation.

7.4 Where a Sign is erected, located, or displayed in contravention of this By-law, the Designated Official may immediately pull down or remove any Sign that he
determines constitutes a safety hazard or a concern without notice or compensation.

7.5 Where a Sign does not comply with this By-law or a permit issued under this By-law, the Designated Official may order the Sign Owner to remove or bring the Sign into compliance in the manner and within the time specified in the order.

7.6 The order mentioned in section 7.5 may be served:

(a) by personal service upon the Sign Owner;
(b) by prepaid registered mail sent to the last address of the Sign Owner, shown on the records of the City of Hamilton; or,
(c) by prominently posting a copy of the order either on the Sign in respect of which the order is made, or on the Property upon which the Sign is erected, located, or displayed.

7.7 Where the order is served in accordance with section 7.6 it is deemed to have been received by the party being served upon the mailing or posting of the order.

7.8 Where a Sign is not removed or is not brought into conformity as required by an order under section 7.5, the Designated Official may have the Sign removed without notice or compensation. For this purpose, the Designated Official, an inspector and their contractor or other agent may enter upon the Property at any reasonable time.

7.9 The cost incurred by the City of Hamilton in removing a Sign under this part of the By-law is deemed to be municipal taxes and may be added to the collector's roll and collected in the same manner as municipal taxes. Despite the foregoing, the cost incurred by the City of Hamilton in removing a Sign under this part of the By-law is a debt payable to the City of Hamilton and may be recovered in any court of competent jurisdiction.

7.10 Any Sign removed by the City of Hamilton shall be stored by the City of Hamilton for twenty-eight (28) days, during which time the Sign Owner may redeem such Sign upon payment of the applicable fee prescribed on Schedule "A."

7.11 Where a Sign has been removed by the City of Hamilton and has been stored for a period of twenty-eight (28) days and has not been redeemed by the Sign Owner, such Sign may be destroyed or otherwise disposed of by the City of Hamilton without notice or compensation.
PART 8.0  
CONFLICT

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

PART 9.0  
VALIDITY

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

PART 10.0  
REPEAL

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

PART 11.0  
EFFECTIVE DATE

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

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

MAYOR

CLERK
## SCHEDULE “A” TO BY-LAW NO. 06-243

### Fees

#### 1. PERMITS FOR SIGNS

<table>
<thead>
<tr>
<th>SIGN TYPE</th>
<th>FEE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ground Sign</td>
<td>$150.00 sign area of less than or equal to 2.5 m²</td>
</tr>
<tr>
<td>New Home Development Ground Sign</td>
<td>$250.00 sign area from greater than 2.5 m² to equal to 4.0 m²</td>
</tr>
<tr>
<td></td>
<td>$500.00 sign area of greater than 4.0 m²</td>
</tr>
<tr>
<td>Awning, Canopy, Marquee, Parapet, Projecting and Wall Signs</td>
<td>$250.00</td>
</tr>
<tr>
<td>Billboard</td>
<td>$500.00</td>
</tr>
<tr>
<td>Mobile Sign</td>
<td>$100.00 for 28 consecutive days</td>
</tr>
<tr>
<td></td>
<td>$65.00 for 14 consecutive days</td>
</tr>
<tr>
<td>Mobile Sign advertising a grand opening or closing promotional event</td>
<td>$150 for 7 consecutive days</td>
</tr>
<tr>
<td>Sidewalk Sign</td>
<td>$75.00 per year</td>
</tr>
<tr>
<td>Banner</td>
<td>$75.00 for 28 consecutive days</td>
</tr>
<tr>
<td>Banner advertising a grand opening or closing promotional event</td>
<td>$150 for 7 consecutive days</td>
</tr>
<tr>
<td>Inflatable Sign</td>
<td>$75 for 7 consecutive days</td>
</tr>
<tr>
<td>New Home Development Portable Sign</td>
<td>$50.00 per year</td>
</tr>
</tbody>
</table>

#### 2. SIGN VARIANCE APPLICATION

| Fee                                                                       | $670.00                                                            |
**SCHEDULE “A” TO BY-LAW NO. 06-243**

**Fees**

| Fee for a Sign Erected, Located or Displayed Without a Permit | $970.00 |

**3. ENFORCEMENT FEES**

| Removal of an Unlawful Permanent Sign | $200.00 per Sign or the actual cost of removing the Sign, whichever is greater |
| Storage Charge for an Unlawful Permanent Sign | $50.00 per Sign per day |
| Removal of an Unlawful Mobile Sign | $200.00 per Sign or the actual cost of removing the Sign, whichever is greater |
| Storage Charge for an Unlawful Mobile Sign | $50.00 per Sign per day |
| Removal of an Unlawful Portable Sign | $50.00 per Sign or the actual cost of removing the Sign, whichever is greater |
| Storage Charge for an Unlawful Portable Sign | $25.00 per Sign per day |
| Storage Charge for an Unlawful Election Sign | $25.00 per Sign per day |

**4. REFUND of FEES**

Notwithstanding the percentages below, no refund is to be made of an amount less than $75.00

75 percent if, in the opinion of the Designated Official, administrative functions only have been performed

50 percent if, in the opinion of the Designated Official, administrative and plan examination functions only have been performed

25 percent if the permit has been issued and no inspections have been performed subsequent to permit issuance and the Sign has not been erected, located or displayed
SCHEDULE “B” TO BY-LAW NO. 06-243

Signs Not Requiring Permits

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

<table>
<thead>
<tr>
<th>SIGN TYPE</th>
<th>LOCATION/ZONE</th>
<th>REGULATIONS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sign in a City of Hamilton park or cemetery</td>
<td>City of Hamilton park or cemetery</td>
<td>Subject to the provision of the City of Hamilton By-law governing the park or cemetery.</td>
</tr>
<tr>
<td>Inflatable Sign advertising a holiday or festival</td>
<td>Private Property</td>
<td>Refer to Subsection 5.9.7</td>
</tr>
<tr>
<td>Election Sign</td>
<td>Private Property</td>
<td>Refer to Section 5.13</td>
</tr>
<tr>
<td>Commemorative Sign, plaques, or corner stone of a non-advertising nature</td>
<td>Public and Private Property</td>
<td>Attached to the wall of the building.</td>
</tr>
<tr>
<td>Emblem of Religious Organization</td>
<td>Private Property</td>
<td>-</td>
</tr>
<tr>
<td>Flag of a country, province, territory, municipality, corporation, organization or association</td>
<td>Public and Private Property</td>
<td>-</td>
</tr>
<tr>
<td>Sidewalk Sign</td>
<td>Private Property</td>
<td>Refer to Section 5.8</td>
</tr>
<tr>
<td>Home Occupation Sign</td>
<td>Residential Zone</td>
<td>Maximum Sign Area 0.3 m². Signs must be attached to and flat against the wall of the related building. Signs must be non-illuminated.</td>
</tr>
<tr>
<td>Bed and Breakfast Sign</td>
<td>Residential Zone</td>
<td>Maximum Sign Area 0.3 m².</td>
</tr>
<tr>
<td>No Trespass or Warning Sign</td>
<td>Private Property</td>
<td>Maximum Sign Area 0.2 m².</td>
</tr>
<tr>
<td>Sign advertising the sale of seasonal farm produce</td>
<td>Agricultural Zone</td>
<td>Maximum Sign Area 3.0 m² Approval of the Owner of the Property.</td>
</tr>
</tbody>
</table>
### SCHEDULE “B” TO BY-LAW NO. 06-243

#### Signs Not Requiring Permits

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

<table>
<thead>
<tr>
<th>Sign Description</th>
<th>Zone</th>
<th>Maximum Sign Area</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sign associated with an agricultural use</td>
<td>Agricultural Zone</td>
<td>Maximum Sign Area 3.0 m².</td>
</tr>
<tr>
<td>Sign erected, located or displayed by a non-profit agricultural society for an event or fair it operates</td>
<td>Agricultural Zone</td>
<td>Maximum Sign Area 9.0 m² Approval of the Owner of the Property.</td>
</tr>
<tr>
<td>Mural</td>
<td>Commercial Zone</td>
<td>Maximum Sign Area 50% of the wall on which the mural is displayed.</td>
</tr>
<tr>
<td>Incidental Sign</td>
<td>Private Property</td>
<td>Maximum Sign Area 1.0 m².</td>
</tr>
<tr>
<td>Directional Sign</td>
<td>Private Property</td>
<td>Refer to Section 5.7.</td>
</tr>
<tr>
<td>Banner erected, located or displayed by a Charity or community organization</td>
<td>Private Property</td>
<td></td>
</tr>
<tr>
<td>Sign erected, located or displayed by a Person performing work or services on a residential Property</td>
<td>Private Property in Residential Zones if the service is being performed at that Property</td>
<td>Maximum Sign Area not exceeding 1.2 m² and Height not exceeding 1.25 metres. No illumination. Display only during the period the work or service is being performed.</td>
</tr>
<tr>
<td>Real Estate Sign</td>
<td>Private Property/Residential Use</td>
<td>Maximum Sign Area 1.0 m² Only erected, located, or displayed on Property for sale or rent. Display no longer than seven (7) days after a firm sale is reported to the local realtors association or seven (7) days after the Property or space has been leased.</td>
</tr>
</tbody>
</table>
### SCHEDULE “B” TO BY-LAW NO. 06-243

#### Signs Not Requiring Permits

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

<table>
<thead>
<tr>
<th>Sign Type</th>
<th>Location</th>
<th>Maximum Sign Area</th>
<th>Requirements</th>
</tr>
</thead>
<tbody>
<tr>
<td>Real Estate Sign</td>
<td>Private Property/Apartment</td>
<td>4.0 m²</td>
<td>Only erected, located, or displayed on Property for sale or rent. Display no longer than seven (7) days after a firm sale is reported to the local realtors association or seven (7) days after the Property or space has been leased.</td>
</tr>
<tr>
<td>Real Estate Sign</td>
<td>Private Property</td>
<td>4.0 m²</td>
<td>Only erected, located, or displayed on Property for sale or rent.</td>
</tr>
<tr>
<td>Real Estate Sign</td>
<td>Commercial/Industrial Use</td>
<td>4.0 m²</td>
<td>Only erected, located, or displayed on Property for sale or rent.</td>
</tr>
<tr>
<td>Open House Directional Sign</td>
<td></td>
<td>0.5 m²</td>
<td>Not erected, located, or displayed on a traffic median, traffic island, light standard or utility pole. Located no closer than 0.3 metres from the sidewalk. Displayed between 10:00 a.m. and 6:00 p.m. the day of the open house.</td>
</tr>
<tr>
<td>Construction Information Sign</td>
<td>Private Property</td>
<td>10.0 m²</td>
<td>Display no longer than 30 days after project’s completion.</td>
</tr>
<tr>
<td>Temporary Personal Sign</td>
<td>Private Property</td>
<td>2.0 m²</td>
<td>Located 3.0 metres from the Street Line and 3.0 metres from any interior Property Line. Maximum display period of 48 hours.</td>
</tr>
</tbody>
</table>
**SCHEDULE “B” TO BY-LAW NO. 06-243**

**Signs Not Requiring Permits**

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

| Poster | Community Bulletin Boards or Poster Sleeve at Designated Locations | - Paper or cardboard only.  
- Maximum Sign Area 22.0 cm by 28.0 cm.  
- Only affixed by tape.  
- Maximum one Poster per approved location.  
- Maximum display period of 21 days and not more than 3 days after the end of an advertised event. |
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Window Sign</td>
<td>Private Property</td>
<td>Maximum 50% of the window surface.</td>
</tr>
</tbody>
</table>
**SCHEDULE “C” TO BY-LAW NO. 06-243**

**Sign Provisions For Signs Requiring Permits**

A permit shall be required for the following Signs:

<table>
<thead>
<tr>
<th>Sign Type</th>
<th>Zone/Use</th>
<th>Regulations</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ground Sign</td>
<td>Refer to Subsection 5.2.11</td>
<td>Separation of 200.0 metres between each Ground Sign parallel with the Frontage on a Street</td>
</tr>
<tr>
<td></td>
<td></td>
<td>0.3 times the Property Frontage on which the Sign is erected, located, or displayed to a maximum area of 18.0 m² for each Sign Face</td>
</tr>
<tr>
<td></td>
<td></td>
<td>3.5 metres (Sign Area less than 4.0 m²)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>6.0 metres (Sign Area 4.0 m² to 6.0 m²)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>7.5 metres (Sign Area over 6.0 m²)</td>
</tr>
<tr>
<td>Wall Sign</td>
<td>Refer to Subsection 5.3.12</td>
<td>-</td>
</tr>
<tr>
<td></td>
<td></td>
<td>15% of the building elevation on which the Sign is erected, located, or displayed</td>
</tr>
<tr>
<td></td>
<td></td>
<td>-</td>
</tr>
<tr>
<td>Awning, Canopy and Marquee Signs</td>
<td>Refer to Subsection 5.5.3</td>
<td>-</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Graphic or lettering limited to 20% of the surface</td>
</tr>
<tr>
<td></td>
<td></td>
<td>-</td>
</tr>
<tr>
<td>Inflatable Sign not including an Inflatable Sign advertising a holiday or festival</td>
<td>Commercial and Industrial Zones on developed and occupied Property</td>
<td>Refer to Section 5.9</td>
</tr>
</tbody>
</table>
## SCHEDULE "C" TO BY-LAW NO. 06-243

### Sign Provisions For Signs Requiring Permits

A permit shall be required for the following Signs:

<table>
<thead>
<tr>
<th>Sign Type</th>
<th>Zone Descriptions</th>
<th>Limitations</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Parapet Sign</td>
<td>Refer to Subsection 5.3.12</td>
<td>1 for each side of a building</td>
<td>15% of the parapet</td>
</tr>
<tr>
<td>Projecting Sign</td>
<td>Commercial Zones</td>
<td>1</td>
<td>1.0 m²</td>
</tr>
<tr>
<td>Billboard</td>
<td>Commercial and Industrial Zones on Vacant, undeveloped Property</td>
<td>Refer to Section 5.14</td>
<td></td>
</tr>
<tr>
<td>Mobile Sign</td>
<td>Refer to Subsections 5.6.25 and 5.6.26</td>
<td>Refer to Section 5.6</td>
<td></td>
</tr>
<tr>
<td>Banner not including a Banner erected, located or displayed by a Charity or community organization</td>
<td>Commercial, Industrial and Institutional Zones</td>
<td>Refer to Section 5.7</td>
<td></td>
</tr>
<tr>
<td>Sidewalk Sign not including a Sidewalk Sign on private Property</td>
<td>Commercial use</td>
<td>Refer to Section 5.8</td>
<td></td>
</tr>
<tr>
<td>New Home Development Ground Sign</td>
<td>Residential and Commercial Zones</td>
<td>Refer to Section 5.10</td>
<td></td>
</tr>
<tr>
<td>New Home Development Portable Sign</td>
<td>Residential and Commercial Zones</td>
<td>Refer to Section 5.11</td>
<td></td>
</tr>
</tbody>
</table>
SCHEDULE “D” TO BY-LAW NO. 06-243

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

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

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

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

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

City of Hamilton
02-368
05-154

The Corporation of the Down of Dundas
3094-79
3140-79 amends 3094-79
3213-80 amends 3094-79
3238-81 amends 3094-79
3304-81 amends 3094-79
3386-83 amends 3094-79
3422-83 amends 3094-79
3559-85
3732-88 amends 3094-79
4286-96 amends 3094-79
4333-97 amends 3094-79
4384-97 amends 3094-79
4410-98 amends 3094-79
4532-00 amends 3094-79
4579-00 amends 3094-79

The Corporation of the City of Stoney Creek
2531-88
2627-88
2792-89 amends 2627-88
2867-89 amends 267-88 and 2792-89
3042-89
3141-90
3263-90 amends 3042-89
3515-92 amends 3042-89
3721-93 amends 3042-89
3961-94 amends 3042-89
4267-95
4529-97 amends 3042-89

The Regional Municipality of Hamilton-Wentworth
R94-117
R97-030
R99-002 amends R94-117
CITY OF HAMILTON

BY-LAW NO. 07-324

To Amend By-law 06-243 as it Relates to Delegated Authority Respecting Signs and Other Advertising Devices within the City of Hamilton

WHEREAS the Council of the City of Hamilton deems it necessary to amend By-law No. 06-243 to update all references made to staff titles and standing committee names in order to reflect the new organizational structure of the Planning and Economic Development Department;

AND WHEREAS this is an administrative change that does not change the intent or effect of the delegated approval authority;

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

1. That Section 6.3 of By-law 06-243 is amended by deleting the phrase “Director of Development and Real Estate or his designate” and replacing it with the phrase “Director of Planning or any successor, or his designate”.

2. That Section 6.6 of By-law 06-243 is deleted in its entirety and replaced with the following section:

   “6.6 An applicant may appeal the variance application decision of the Director of Planning or any successor, or his designate to the Economic Development and Planning Committee or any successor Committee.”

3. That Section 6.7 of By-law 06-243 is amended by deleting the phrase “Planning and Economic Development Committee” and replacing it with the phrase “Economic Development and Planning Committee or any successor Committee.”
4. That Section 6.8 of By-law 06-243 is amended by deleting the phrase "Planning and Economic Development Committee" and replacing it with the phrase "Economic Development and Planning Committee or any successor Committee".

5. That the Clerk is hereby authorized and directed to proceed with the giving of notice of the passing of this By-law, in accordance with the Municipal Act.

6. This By-law comes into force and effect on the day it is passed and enacted.

PASSED and ENACTED this 14th day of November, 2007.

Fred Eisenberger
Mayor

Kevin C. Christenson
City Clerk

CI-07-N