

Authority: Item 1, Planning Committee
Report 21-017 (PED21202)
CM: November 10, 2021
Ward: City Wide
Bill No. 207

CITY OF HAMILTON

BY-LAW NO. 21-207

A By-law to Regulate Public Notices at Infill Construction Sites

WHEREAS under subsection 10(2) of the *Municipal Act, 2001*, S.O. 2001, c. 25 (the “Act”), the City may pass by-laws in respect of the health, safety and well-being of persons and the economic, social and environmental well-being of the City;

AND WHEREAS under subsection 128 (1) of the Act, a local municipality may prohibit and regulate with respect to public nuisances;

AND WHEREAS the collection of activities commonly referred to as Infill Housing Projects, involves a series of activities that have a variety of impacts on the surrounding area, such as increased traffic and creation of unusual traffic patterns in the surrounding area, interference with the use of public places, along with increased amounts of noise, waste, odour and dust which due to the sensitive nature of land uses in residential communities are of particular concern and may become or cause public nuisances;

AND WHEREAS under subsection 10(1) of the Act, the City may provide any service or thing that the City considers necessary or desirable for the public;

AND WHEREAS under subsection 10(2) of the Act, the City may enact by-laws respecting accountability and transparency of the City and its operations;

AND WHEREAS under section 425 of the Act, the City may pass by-laws providing that a person who contravenes a by-law of the City passed under this Act is guilty of an offence, and under section 429 may establish a system of fines for offences;

AND WHEREAS under section 445 of the Act, the City may make an order requiring the person who contravened, or caused or permitted the contravention, of a by-law or the Owner or occupier of the land on which the contravention occurred to discontinue the contravening activity, or do work to correct the contravention;

AND WHEREAS under sections 446 of the Act, the City may also provide that, in default of it being done by the person directed or required to do it, the matter or thing shall be done at the person's expense, and that the City may enter upon land at any reasonable time for this purpose;

AND WHEREAS the City currently has a variety of operations and responsibilities which are designed to balance the public interest in the development of housing, with the public interest in the responsible management of the negative impacts on the surrounding area related to some activities related to Infill Housing Projects;

AND WHEREAS the required Information Notices will provide the public with clear and accessible information regarding residential Infill Housing Projects, the means by which to obtain more detailed information about the projects, and contact information for Builders of the projects so that the public may easily and directly address any complaints or concerns regarding the manner in which the projects are being carried out to the entity responsible;

AND WHEREAS Council has authorized the collection of information by the City regarding residential infill projects, including contact information for the Builders of said projects and the Owners of the properties where such projects take place, for the purpose of production of the Information Notices to be installed and displayed to the public and to enable the City to more efficiently implement its operations regarding Infill Housing Projects;

AND WHEREAS keeping the public informed about residential Infill Housing Projects, responsible construction practices, and the City's operations to respond to concerns and address compliance issues are part of the City's strategy to minimize or eliminate the negative impacts related to Infill Housing Projects;

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

1. DEFINITIONS

1.1 In this By-law:

"Builder" means the person who is responsible for carrying out or causing the carrying out of all demolition and/or construction activities of an Infill Housing Project.

"Building Code Act, 1992" means the *Building Code Act, 1992*, S.O. 1992, c. 23, as amended;

"By-law" means this By-law, to Regulate Public Notices at Infill Construction Sites;

"City" means the City of Hamilton;

"Chief Building Official" means the Chief Building Official appointed by the Council of the City of Hamilton pursuant to the *Building Code Act, 1992*, and any person authorized by the Chief Building Official to carry out the duties of the Chief Building Official under this By-law;

"Construction Declaration Form" means a Declaration Form required to be submitted to the Chief Building Official under this By-law where an application for an Infill Housing Construction Permit has been filed with the Chief Building Official;

“Declarant” means the person who submits a Declaration Form or a revised Declaration Form to the Chief Building Official in accordance with the requirements of this By-law;

“Declaration Form” means a Demolition Declaration Form or a Construction Declaration Form required to be submitted to the Chief Building Official under the provisions of this By-law;

“Demolition Declaration Form” means a Declaration Form required to be submitted to the Chief Building Official under this By-law where an application for an Infill Housing Demolition Permit has been filed with the Chief Building Official;

“House” means a detached or semi-detached house, but shall not include a detached or semi-detached house which is to be built pursuant to a plan of subdivision registered 5 years or less from the date of construction of the new detached or semi-detached house, or for a new detached or semi-detached house in an agricultural or open space zone;

“Infill Housing” means demolition and/or construction in any of the following scenarios:

- (a) the construction of a new detached or semi-detached House on a vacant lot;
- (b) the demolition of an existing House and construction of a replacement new House;
- (c) the demolition of an existing House where there is no proposed construction of a replacement new House;
- (d) the construction of an addition or additions to an existing House where the combined total area of the additions is 100 square metres or more; or
- (e) the construction of a detached secondary dwelling unit;

“Infill Housing Construction Permit” means an infill housing permit authorizing only construction and not demolition;

“Infill Housing Demolition Permit” means an infill housing permit authorizing only demolition and not construction;

“Infill Housing Permit” means a permit issued for infill housing including an Infill Housing Construction Permit and an Infill Housing Demolition Permit;

“Infill Housing Project” means the infill housing demolition and/or construction work authorized by an Infill Housing Permit on a property;

“Information Notice” means the device as described in Schedule A that uses form, graphic, symbols and writing to convey information to the public regarding an Infill Housing Project;

“Information Notice Template” means the digital file prepared by the Chief Building Official consisting of the template for the production of the Information Notice;

“Notice of Violation” means an order issued by the Chief Building Official requiring a person to discontinue an activity which is in contravention of this By-law, or to do work to correct the contravention;

“Occupancy Permit” means an occupancy permit issued by the Chief Building Official pursuant to Article 1.3.3 of Division C of the Ontario *Building Code, 2012*;

“Owner” means the registered Owner of the land and includes a lessee, mortgagee in possession and the person in charge of the property;

“Permit” means a demolition or construction permit issued by the Chief Building Official under the *Building Code Act, 1992*, but shall not include plumbing, HVAC and mechanical permits;

“Property” means the land on which infill housing is authorized under an Infill Housing Permit;

“Revised Declaration Form” means the form required to be submitted to the Chief Building Official under this By-law where there has been a change or changes to information provided in the original Construction Declaration Form;

“Revised Information Notice Template” means an Information Notice Template prepared by the Chief Building Official under this By-law on the basis of information provided in the Revised Declaration Form; and

“Street” means a common and public highway and includes any bridge, trestle, viaduct or other structure forming part of the highway and, except as otherwise provided, includes a portion of a highway.

2. ADMINISTRATION

- 2.1 The Chief Building Official shall be responsible for the administration and enforcement of this By-law.
- 2.2 The Chief Building Official shall collect the information required by this By-law specifically for the purpose of creating and maintaining a record available to the general public.
- 2.3 An Information Notice shall not be considered a “Construction Information Ground Sign” pursuant to the City of Hamilton’s Sign By-law 10-197. For further clarity, the City of Hamilton’s Sign By-law 10-197, as amended, does not apply to an Information Notice.

3. INFORMATION NOTICE REGULATIONS

Requirement to Post Information Notices

- 3.1 Where an Infill Housing Permit has been issued by the Chief Building Official for an Infill Housing Project, one or more Information Notices shall be erected and displayed on the property in accordance with the provisions of this By-law.
- 3.2 Where an Infill Housing Project requires both an Infill Housing Demolition Permit and an Infill Housing Construction Permit, separate Information Notices shall be erected and displayed on the property in respect of the demolition and construction, respectively, in accordance with the provisions of this By-law.

Demolition Declaration Form

- 3.3 On the same date that an application for an Infill Housing Demolition Permit is filed with the Chief Building Official, a Demolition Declaration Form shall be submitted to the Chief Building Official in the manner prescribed by the Chief Building Official, and the Declarant shall pay the fee prescribed in the City's Fees and Charges By-law, as amended.
- 3.4 The Demolition Declaration Form shall contain the following information:
 - (a) The municipal address of the property;
 - (b) The name of the Owner of the property, and where the Owner is a corporation, the name of an officer of the corporation responsible for the property;
 - (c) A working contact phone number and contact e-mail address for the Owner, both of which shall at all times be active and reliable, and where the Owner is a corporation, the contact phone number and e-mail address shall be those of the officer of the corporation identified in Subsection 3.4 (b);
 - (d) The name of the Builder, and where the Builder is a corporation, the name of an officer of the corporation responsible for the Infill Housing Project;
 - (e) A working contact phone number and contact e-mail address for the Builder, both of which shall at all times be active and reliable, and where the Builder is a corporation, the contact phone number and e-mail address shall be those of the officer of the corporation identified in Subsection 3.4 (d); and
 - (f) Any other information required and prescribed by the Chief Building Official.

Construction Declaration Form

- 3.5 At any time following the filing of an application for an Infill Housing Construction Permit with the Chief Building Official but no later than the date of issuance of the Infill Housing Construction Permit, a Construction Declaration Form shall be submitted to the Chief Building Official in the manner prescribed by the Chief Building Official, and the Declarant shall pay the fee prescribed in the City's Fees and Charges By-law, as amended.

- 3.6 Notwithstanding Subsection 3.5, where no Builder has assumed responsibility for the Infill Housing Project as at the date of issuance of the Infill Housing Construction Permit such that construction of the Infill Housing Project will not yet be commencing, the Construction Declaration Form shall be submitted to the Chief Building Official within 24 hours of a Builder assuming responsibility for the Infill Housing Project.
- 3.7 The Construction Declaration Form shall contain the following information:
- (a) The municipal address of the property;
 - (b) A description of the Infill Housing Project;
 - (c) The name of the Owner of the property, and where the Owner is a corporation, the name of an officer of the corporation responsible for the property;
 - (d) A working contact phone number and contact e-mail address for the Owner both of which shall at all times be active and reliable, and where the Owner is a corporation, the contact phone number and e-mail address shall be those of the officer of the corporation identified in Subsection 3.7(c);
 - (e) The name of the Builder, and where the Builder is a corporation, the name of an officer of the corporation responsible for the Infill Housing Project;
 - (f) A working contact phone number and contact e-mail address for the Builder, both of which shall at all times be active and reliable, and where the Builder is a corporation, the contact phone number and e-mail address shall be those of the officer of the corporation identified in Subsection 3.7(e);
 - (g) The decision file numbers and decision dates of any decision of the Committee of Adjustment, Ontario Municipal Board, and/or Local Planning Appeal Tribunal, pertaining to the Infill Housing Project; and
 - (h) Any other information required and prescribed by the Chief Building Official.
- 3.8 The Construction Declaration Form shall be accompanied by a rendering of the building at the property as it is expected to look following the completion of the Infill Housing Project, and the rendering shall meet the following requirements:
- (a) shall be in black and white;
 - (b) shall consist of a line drawing of the front and rear elevation of the Infill Housing Project; and
 - (c) in a minimum resolution of 300 dpi.

Preparation and Delivery of the Information Notice Template

- 3.9 Where the Chief Building Official is satisfied that the Declaration Form contains all the required information, the Chief Building Official shall prepare an Information Notice Template in a design prescribed by the Chief Building Official.
- 3.10 Where the Declaration Form submitted to the Chief Building Official is a Demolition Declaration Form, the Information Notice Template shall contain the following information:
- (a) The Infill Housing Demolition Permit application number;
 - (b) The municipal address of the property;
 - (c) The name of the Builder and the contact phone number and e-mail address for the Builder;
 - (d) Reference to Hamilton Building's website;
 - (e) Hamilton Building Inspections Contact Phone Number; and
 - (f) Any other information required by the Chief Building Official.
- 3.11 Where the Declaration Form submitted to the Chief Building Official is a Construction Declaration Form, the Information Notice Template shall contain the following information:
- (a) The Infill Housing Construction Permit number;
 - (b) The date of issuance of the Infill Housing Construction Permit;
 - (c) The municipal address of the property;
 - (d) The name of the Builder and the contact phone number and e-mail address for the Builder;
 - (e) The decision file numbers and decision dates of any decision of the Committee of Adjustment, Ontario Municipal Board, and/or Local Planning Appeal Tribunal;
 - (f) The rendering filed with the Construction Declaration Form under section 3.8 of this By-law;
 - (g) Reference to Hamilton's Building's website;
 - (h) Hamilton's Building Inspections Contact Phone Number; and
 - (i) Any other information required by the Chief Building Official.
- 3.12 In the case of a Demolition Declaration Form, the Chief Building Official shall deliver the Information Notice Template to the Declarant in the manner prescribed by the Chief Building Official within two business days of the date of receipt of the completed Demolition Declaration Form to the Chief Building Official's satisfaction.

- 3.13 In the case of a Construction Declaration Form, the Chief Building Official shall deliver the Information Notice Template to the Declarant in the manner prescribed by the Chief Building Official within two business days of the later of:
- (a) the issuance of the Infill Housing Construction Permit by the Chief Building Official; and
 - (b) the date of receipt of the completed Construction Declaration Form by the Chief Building Official to the Chief Building Official's satisfaction.
- 3.14 The Information Notice Template shall be deemed to have been received by the Declarant on the date it is delivered by the Chief Building Official.

Production and Erection of Information Notice

- 3.15 Using the Information Notice Template provided by the Chief Building Official to the Declarant, the Owner or Builder shall, at the Owner's or Builder's own cost, produce or arrange for the production of the number of Information Notices, required pursuant to section 3.16, which shall comply with the following standards:
- (a) Be sized in accordance with Schedule A;
 - (b) Be constructed entirely of Coroplast, corrugated Polypropylene plastic or other durable weather resistant material; and
 - (c) Prominently display the forms, graphics, symbols and writing as indicated in Schedule A and the Information Notice Template delivered by the Chief Building Official.
- 3.16 One Information Notice shall be required for every lot line of a property facing a Street.
- 3.17 Where the Infill Housing Project is pursuant to an Infill Housing Demolition Permit, the Owner or Builder shall erect and display or cause the erection and display of the number of Information Notices required by section 3.16 on the property at least five business days prior to the commencement of demolition.
- 3.18 Where the Infill Housing Project is pursuant to an Infill Housing Construction Permit, the Owner or Builder shall erect and display or cause the erection and display of the number of Information Notices required by section 3.16 on the property within five business days of the commencement of construction.
- 3.19 All Information Notices shall be erected and displayed on the property either on the construction fence or in any other visible and conspicuous location on the property and in accordance with the following requirements:
- (a) Each Information Notice shall face a Street;
 - (b) Each Information Notice shall be erected and displayed such that the bottom of the Information Notice is not less than 0.61 metres from grade;

- (c) Nothing shall obscure or block the view of the Information Notice; and
 - (d) Each Information Notice shall be erected in a safe and secure manner.
- 3.20 Within 24 hours of erecting the required number of Information Notices at the property, a photograph of each Information Notice erected shall be provided to the Chief Building Official in the manner prescribed by the Chief Building Official confirming that the Information Notices have been erected and are being displayed in accordance with the provisions of this By-law.

Removal of the Information Notice

- 3.21 All Information Notices shall remain erected and displayed on the property to which they relate until an Occupancy Permit has been issued by the Chief Building Official at which time they may be removed.
- 3.22 Notwithstanding section 3.21, where the Information Notice relates to an Infill Housing Demolition Permit, the Information Notice shall remain erected and displayed on the property until all demolition work authorized by the Infill Housing Demolition Permit has been completed, to the satisfaction of the City, at which time it may be removed.

Maintenance

- 3.23 Information Notices shall at all times be maintained in good condition and, without limiting the foregoing, shall not become unsafe, damaged, structurally unsound, or dangerous.
- 3.24 Should an Information Notice become damaged, unsafe, structurally unsound, dangerous, obstructed or no longer visible for any reason, it shall immediately be replaced with a new Information Notice produced using the Information Notice Template provided by the Chief Building Official under this By-law.

Revisions

- 3.25 Should any information provided in the Construction Declaration Form change following the submission of the Construction Declaration Form to the Chief Building Official by the Declarant under this By-law, a revised Declaration Form with the revised information shall be submitted to the Chief Building Official in the manner prescribed by the Chief Building Official.
- 3.26 A revised Declaration Form is not required where the only change following the submission of the Construction Declaration Form to the Chief Building Official is to the rendering provided in section 3.8.
- 3.27 The revised Declaration Form need not be accompanied by a new rendering of the building at the property as it is expected to look following the completion of the Infill Housing Project.

- 3.28 Where a revised Declaration Form is submitted to the Chief Building Official after the Chief Building Official has delivered the Information Notice Template to the Declarant, and where the changes to the information in the original Construction Declaration Form relate to the information required under this By-law, the Chief Building Official shall prepare a revised Information Notice Template and shall, within two business days of receiving the revised Declaration Form, deliver the revised Information Notice Template to the Declarant in the manner prescribed by the Chief Building Official.
- 3.29 The Declarant shall be deemed to have received the revised Information Notice Template on the date it is delivered by the Chief Building Official.
- 3.30 Using the revised Information Notice Template provided by the Chief Building Official to the Declarant, the Owner or Builder shall produce or arrange for the production of new Information Notices which comply with the requirements of this By-law.
- 3.31 Within three business days of receipt of the revised Information Notice Template by the Declarant, the Owner or Builder shall erect and display or cause the erection and display of new Information Notices on the property which comply with the requirements under this By-law.
- 3.32 Within 24 hours of erecting the new Information Notices at the property, a photograph of each Information Notice erected shall be provided to the Chief Building Official in the manner prescribed by the Chief Building Official confirming that the Information Notices have been erected and are being displayed in accordance with the provisions of this By-law.

4. ENFORCEMENT

Inspections

- 4.1 The Chief Building Official may enter upon the property at any reasonable time to:
- (a) Determine whether Information Notices have been erected and displayed as required; and/or
 - (b) Inspect an Information Notice for the purpose of determining whether it complies with the provisions of this By-law.

Offences and Penalties

- 4.2 Any person, other than a corporation, who contravenes any provision of this By-law or who obstructs or attempts to obstruct an officer in carrying out his or her duties under this By-law, is guilty of an offence and on conviction is liable to a fine of not less than \$500 and no more than \$50,000, recoverable under the provisions of the *Provincial Offences Act, R.S.O., Chapter P. 33*, as amended, or any successor legislation thereto.

- 4.3 Any corporation which contravenes any provision of this By-law or who obstructs or attempts to obstruct an officer in carrying out his or her duties under this By-law is guilty of an offence and on conviction is liable to a fine of not less than \$1,000 and no more than \$100,000, recoverable under the provisions of *the Provincial Offences Act, R.S.O. 1990, Chapter P.33*, as amended, or any successor legislation thereto.
- 4.4 In addition to offences referred to in sections 4.2 and 4.3, every person, including a corporation, is guilty of an offence who:
- (a) Hinders or obstructs or attempts to hinder or obstruct any person exercising a power or performing a duty under this By-law;
 - (b) Knowingly makes, participates in, assents to or acquiesces in the provision of false information in a statement, application or other document prepared, submitted or filed under this By-law;
 - (c) Fails to submit a Declaration Form or a revised Declaration Form as required;
 - (d) Fails to erect and display an Information Notice as required;
 - (e) Fails to erect and display the number of Information Notices required;
 - (f) Erects and displays or causes to be erected and displayed an Information Notice without first obtaining an Information Notice Template from the Chief Building Official;
 - (g) Erects and displays or causes to be erected and displayed an Information Notice contrary to the Information Notice Template or revised Information Notice Template delivered by the Chief Building Official;
 - (h) Erects and displays an Information Notice which does not comply with the provisions of this By-law;
 - (i) Fails to maintain an Information Notice in accordance with the provisions of this By-law;
 - (j) Produces or causes to be produced an Information Notice for which an Information Notice Template has not been prepared by the Chief Building Official;
 - (k) Produces or causes to be produced an Information Notice which does not comply with the provisions of this By-law;
 - (l) Removes an Information Notice contrary to the provisions of this By-law; and
 - (m) Is a director or officer of a corporation and knowingly concurs with actions taken by or on behalf of the corporation in relation to an offence described in subsections 4.4 (a-l).

- 4.5 Each offence in section 4.4 with the exception of the offences in Subsections 4.4 (l) and (m), is designated as a continuing offence and is subject to, for each day or part of a day that the offence continues, a minimum fine of no less than \$250 and a maximum fine of no more than \$10,000. The total of all of the daily fines imposed for each offence in section 4.5 may exceed \$100,000.

Enforcement

- 4.6 The Chief Building Official may issue a Notice of Violation requiring compliance with this By-law within 14 days to any person who:
- (a) Has failed to erect and display or cause to be erected and displayed an Information Notice as required under this By-law;
 - (b) Has erected and displayed or caused to be erected and displayed an Information Notice contrary to the Information Notice Template or revised Information Notice Template delivered by the Chief Building Official; or
 - (c) Has erected and displayed or caused to be erected and displayed an Information Notice which does not comply with the provisions of this By-law.
- 4.7 Where a Notice of Violation has been issued under section 4.6 and the matter has not been brought into compliance with this By-law within 14 days, the Chief Building Official may take any action deemed necessary to achieve compliance including but not limited to erecting and displaying or causing to be erected and displayed Information Notices on the property, removing or causing to be removed an Information Notice, altering or causing to be altered an Information Notice, and repairing or causing to be repaired an Information Notice, and the City may recover the costs incurred by action or by adding the costs to the tax roll for the property and collecting them in the same manner as property taxes.
- 4.8 The Chief Building Official may enter onto the property for the purpose of actions taken under section 4.6.

5. MISCELLANEOUS

- 5.1 The short title of this By-law is the “Infill Notice By-law.”
- 5.2 This by-law comes into force on April 1, 2022.

PASSED this 10th day of November, 2021.

F. Eisenberger
Mayor

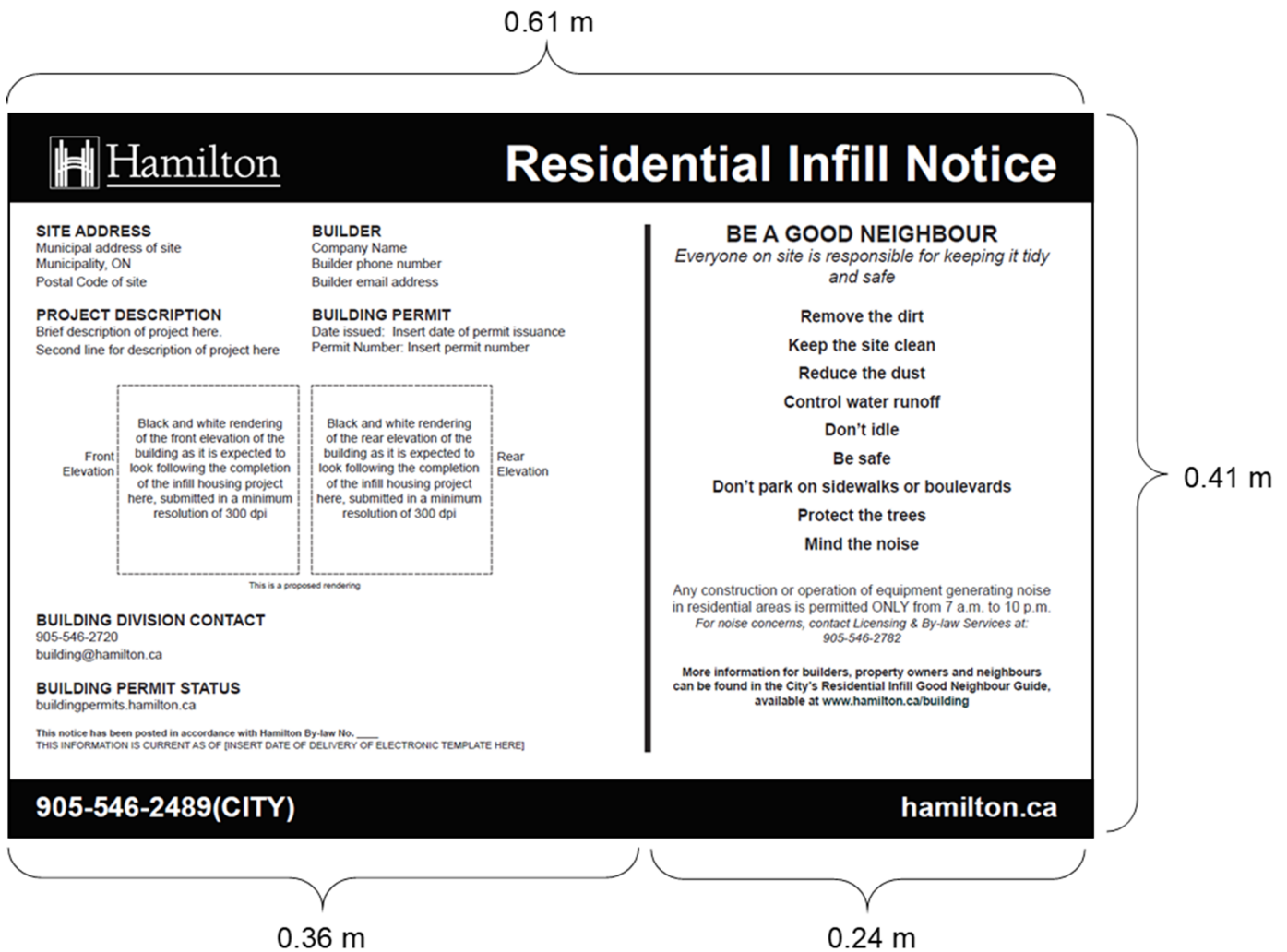
A. Holland
City Clerk

Schedule A

Information Notice Specifications

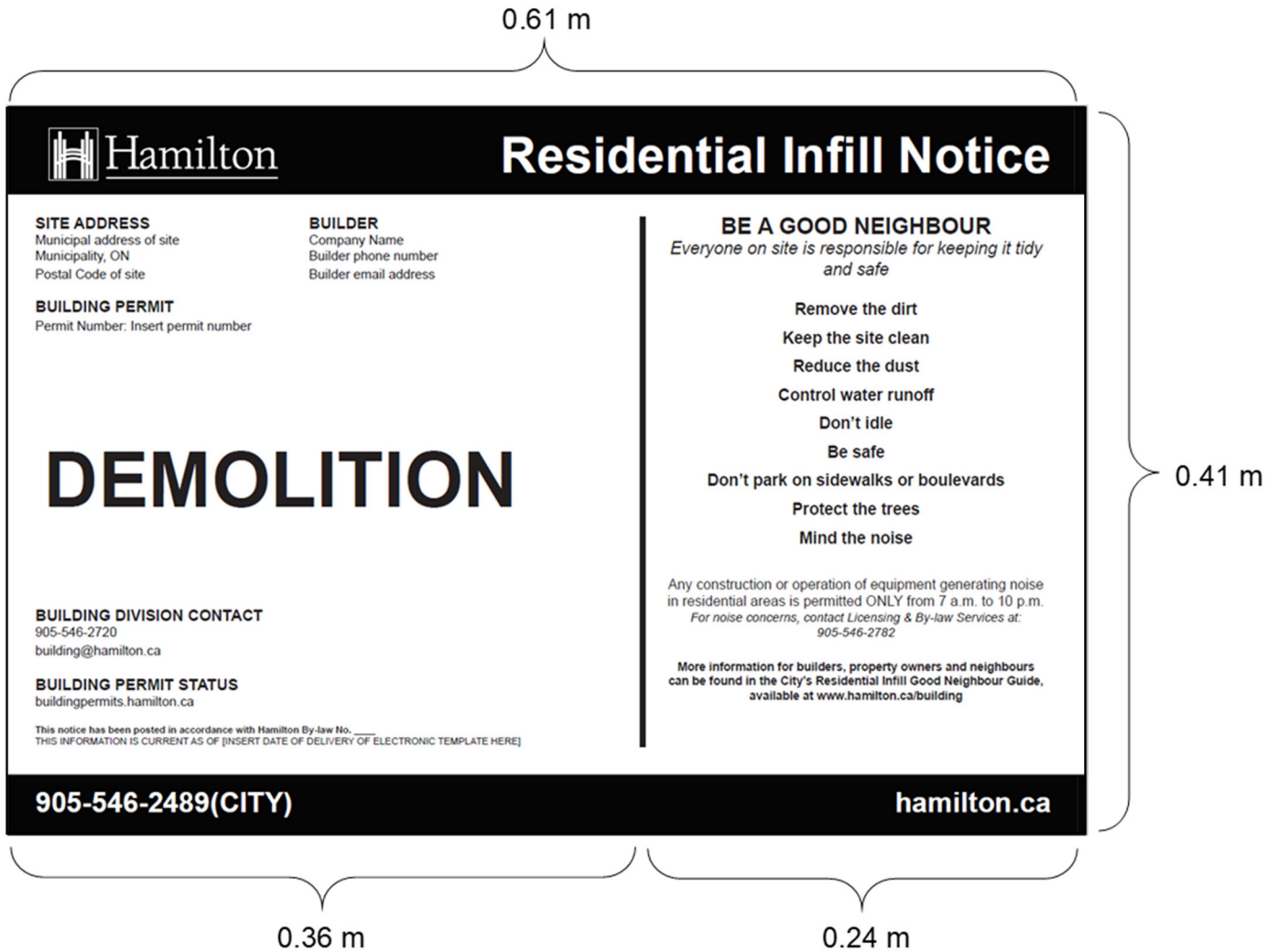
- 1.1 The Information Notice related to an Infill Housing Project containing construction shall be sized in accordance with the requirements of Section 3 of this by-law and shall be in general accordance with the Information Notice Template entitled "Residential Infill Notice – Construction" shown in Diagram 1.

Diagram 1
Residential Infill Notice – Construction



- 1.2 The Information Notice related to an Infill Housing Project, which includes only demolition and no proposed construction, shall be sized in accordance with the requirements of Section 3 of this by-law and shall be in general accordance with the Information Notice Template entitled "Residential Infill Notice – Demolition" shown in Diagram 2.

Diagram 2
Residential Infill Notice – Demolition



- 1.3 The Information Notice Templates shown in Diagram 1 and 2 may be revised by the Chief Building Official as required.