Governing Incivility: An Ethnographic Account of Municipal Law Enforcement, Urban Renewal and Neighbourhood Conflict in the City of Hamilton

By
Rory Sommers

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ABSTRACT

GOVERNING INCIVILITY: AN ETHNOGRAPHIC ACCOUNT OF MUNICIPAL LAW ENFORCEMENT, URBAN RENEWAL AND NEIGHBOURHOOD CONFLICT IN THE CITY OF HAMILTON

Rory Sommers

University of Guelph, 2016

Advisor: Dr. Bill O'Grady

This dissertation offers a detailed ethnographic account of municipal law enforcement in the City of Hamilton, Ontario, Canada. Based on data collected from over 600 hours of ethnographic observations (ride-alongs) with 18 different municipal law enforcement officers and 20 semi-structured interviews conducted with city planners and municipal law officials, this study explores the inconsistencies between how municipal law enforcement is prioritized and how such enforcement plays out throughout Hamilton’s socio-economically diverse neighbourhoods. This dissertation will therefore argue that despite the presence of a neoliberal redevelopment agenda outlined in City documents, discussed by planners and some municipal law officials as well as clearly visible in the privately funded development projects restructuring Hamilton’s downtown, most municipal law enforcement is reactive, serving the function of managing neighbourhood conflicts rather than addressing the physical aesthetics and perceptions of safety in the downtown core that are in keeping with neoliberal economic agendas. As part of this argument, this research demonstrates how while the law itself is not irrelevant, the investigation of local disputes often expose tensions that extend far beyond the scope of municipal law. This study will conclude by exploring how the enforcement of some laws, although carried out in the name of health and safety, can and do have serious social implications for those living on the margins. This discussion will occur within a broader context where it will be argued that as the physical and social landscape of Hamilton continues to change, planning and municipal law officials as well as officers must remain aware of the potential detrimental effects that the enforcement of some municipal laws can have on certain sectors of the City’s population.

Keywords: Municipal Law Enforcement; Municipal Politics; Urban Regulation; Ethnography; Governing Security
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LIST OF ABBREVIATIONS

Multi-Agency Task Force (MATF)
Residential Care Facility (RCF)
North American Free Trade Agreement (NAFTA)
Provincial Offense Notice (PON)

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Chapter 1.0 Introduction

Complaints and Complainants

On a warm Friday night in early June 2014, I stood on the lawn of a semi-detached home in Hamilton’s east-end. With me, were two City of Hamilton municipal law enforcement officers who were responding to a noise complaint lodged against one of the two attached units on the property. The officers informed the accused that Hamilton’s noise by-law (#11-285) was in effect 24 hours a day and that any subsequent visits to the unit where the officers could hear noise that was “likely to disturb” would result in a ticket. In response to the warning, the tenant explained that the complaint had most likely been lodged by the occupant of the unit on the other side of the house. The tenant went on to explain that they had been having “ongoing issues” with their neighbour.

While waiting to be dispatched to their next noise complaint, the officers decided to head into the downtown core to carry out a proactive walk-through of Hess Village, part of Hamilton’s Entertainment District. Due to its Entertainment District designation, the bars and restaurants within Hess village are exempt from the noise by-law. However, the officers were still obligated to uphold the zoning restrictions on these properties to ensure no establishment was providing “entertainment to an outdoor commercial patio”.¹ In other words, while the bars and restaurants in Hess Village were not subject to the “likely to disturb” qualitative definition of noise found in Hamilton’s noise by-law, they were obligated to ensure that no speakers, DJ booths, or televisions were located on the exterior of their establishments. Choosing to do otherwise would violate the permitted use of their properties. As we spoke with several managers and door

¹ See Clause 09-210 of Hamilton’s zoning by-law.
attendants, it became clear that their concerns were not so much with the zoning restriction but instead that another entertainment establishment located several kilometers away was knowingly violating "the entertainment to an outdoor commercial patio" restriction and in turn taking business away from those who were complying.

Upon returning to their vehicles the officers were dispatched to their next call. The dispatcher explained that there had been another complaint lodged against the same east-end property that we had visited earlier in the night. However, this time the party originally accused was the complainant. Speaking with the original complainant and now accused party, the officers were informed that once they left the property the original accused party began banging loudly on their shared walls. The original complainant and now accused, explained to the officers that they had had ongoing issues with their neighbour for some time now.

Walking back across the lawn of the property containing the semi-detached house that we had now visited twice within a span of four hours (to investigate two separate noise complaints), one of the officers smiled at me and remarked "welcome to municipal law enforcement in Hamilton".

* * *

For the officers who enforce Hamilton’s municipal laws, the events outlined above describe a “routine shift”. The officers left the east-end property satisfied the dispute between neighbours had been defused for the evening. Although the Hess Village business owners wanted immediate action taken against their competitor who was allegedly violating the permitted use of their property, the officers’ reassurance that the City was actively investigating their concerns seemed to provide a sense of relief. While not all of the evening’s calls resulted in
compliance, (the zoning investigation was ongoing), the officers had satisfied all parties involved, albeit temporarily.

The events described above demonstrate several important themes that will appear throughout this study. To begin, the enforcement of municipal law is complex. Although the opening narrative describes the enforcement of only two municipal laws, both are multifaceted in their own right. Hamilton’s noise by-law, which defines qualitative and quantitative noise, is spelled-out over nine pages. The City’s comprehensive zoning by-law (#05-200), which defines permitted and non-permitted land-use, has been consolidated into a 216-page document. The original zoning by-laws (2100 pages of permitted and non-permitted uses) that governed land-use in pre-amalgamation Hamilton still hold legal precedence. Importantly, even if a use is permitted on a property that does not guarantee a resident or business can use the property in that manner. For example, if a business wants to convert a store that has been used historically for retail purposes into a hair salon, the business operators would have to obtain City approval (even if a salon is permitted in the zoning). These changes of use are especially problematic in Hamilton’s downtown where large portions of land where originally zoned to accommodate the City’s once vast industrial base.

Adding to this complexity is the fact that some municipal laws (e.g. the noise by-law), contain subjective wording. By prohibiting noise that is “likely to disturb,” each call becomes unique and depends on the tolerance of those living in the neighbourhood. In turn, the enforcement of qualitative definitions of noise rests entirely on the discretion of the responding

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2 A detailed list of commonly enforced by-laws can be found on the City of Hamilton’s website. https://www.hamilton.ca/government-information/by-laws-and-enforcement/city-hamilton-by-laws
officers. On the other hand, zoning laws that define permitted and non-permitted uses are more objective. For example, outdoor commercial patios cannot provide any form of live or recorded music no matter what genre or decibel level. While business owners can request exemptions from zoning by-laws, the process is costly and requires public consultation and City approval. Given the “use” based regulatory power of zoning restrictions, one might think these laws are straightforward to enforce; but in the City of Hamilton, the opposite is true. The challenge for officers is not so much establishing if a violation has occurred (for example, speakers broadcasting music on a commercial patio is a clear violation), but rather if the law should be enforced given the circumstances. This is particularly challenging in housing-related violations where single-family dwellings have been converted into rooming houses. In these cases, the enforcement of zoning laws could result in the displacement of tenants. The decision whether to enforce these zoning restrictions is further complicated by City efforts to rejuvenate the downtown core while attempting to accommodate residents who rely on low cost housing.

The narrative described above also demonstrates the important role that municipal law enforcement officers play in mediating neighbourly and business-related conflicts. This is not to suggest that the law itself does not matter or that all the municipal law related complaints are vexatious. Rather, the majority of complaints are legitimate and are grounded in a violation of one or more municipal laws. On the other hand, as this dissertation will demonstrate, investigating these complaints often reveals tensions between neighbours, businesses and the City itself, that often span far beyond the scope of municipal law.

3 Hamilton does grant special event permits but prohibits any form of ongoing entertainment of an outdoor commercial patio. Although seldom enforced, Hamilton’s noise by-law also has a section that provides quantitative definitions of noise.
Less obvious in the opening narrative, but equally important, is the logic that influences the prioritization and enforcement of different municipal laws. For the officers working on the Friday evening described above, the goal was to mediate nuisance-related complaints and restore a sense, at least on the surface, of calm within neighbourhoods. This is accomplished by educating people on nuisance by-laws, giving verbal warnings, and, at times issuing tickets. As ongoing dialogue with numerous frontline officers would suggest, a majority of municipal law related work involves mediating conflicts and attempting to repair relationships within communities. The way in which officers manage these conflicts is often more dependent on the micro details of the investigation. This may include, for example, the type of complaint or demeanor of the parties involved, as opposed to broader City objectives. This is not to suggest that enforcement practices are not shaped by the logic set by management. In some cases they are, particularly when investigating a complaint uncovers a public safety concern. Key to this study’s central argument, the City’s focus on urban renewal seldom directly influenced the frontline enforcement of municipal law. While Hamilton’s municipal law officers do proactively enforce aesthetically-focused property standards laws, a majority of municipal law enforcement is reactive and deals with disputes much like the ones described above. With that being said, the primary focus of this dissertation will be to explore the disparities that exist between Hamilton’s broader economic development initiatives and the activities that transpire during the enforcement of municipal law at the community level.

1.1 Restructuring the Urban Environment: The Entrepreneurial City and the Law

Like other deindustrialized/rust belt cities, Hamilton’s attempt to rebrand itself as a “world-class” City has brought with it significant challenges, some of which are unique to the City of Hamilton. For example, deinstitutionalization in the 1970s displaced a large number of
marginalized people into Hamilton’s downtown neighbourhoods. This corresponded with the collapse of Hamilton’s steel manufacturing industry, leading to high rates of unemployment and poverty in the neighbourhoods surrounding the City’s two steel mills. This means that on the one hand, even if the objectives that are prioritized in higher-level City documents do not filter down to the street level enforcement of municipal law, the social and political context in which enforcement takes place is still influenced by circumstances unique to Hamilton. On the other hand, deindustrialization and Hamilton’s attempt to position itself in an economically advantageous spot within the global economy has been influenced by factors that span far beyond the City’s regional boundaries. Therefore, while the factors that influence the street level enforcement of municipal law may be localized to a certain extent, they also have ties to larger political and social trends. With this in mind, the current project needs to be understood within a broader discussion of the global neoliberal free market economy, the social and economic agendas that influence urban renewal and the role law plays in maintaining certain market-friendly conditions.

Cities across North America have experienced significant physical, social and cultural change over the last several decades. Declining state support for Keynesian economic policies and the growth of neoliberal inspired thinking has had considerable effects on social and economic policy (Harvey, 2005). Coinciding with national deregulation, the economic rationalities encouraged by neoliberalism have further contributed to the globalization of the economy (Jessop, 2002). For Peck and Tickell (2002, p. 384), this neoliberalization process has been characterized by the ‘roll-back’ of social services through the dismantlement of social welfare and the ‘roll-out’ of polices aimed at the “construction and consolidation of neoliberal state forms, modes of governance and regulatory relations”. Although neoliberal terms of
reference have become normalized and have infiltrated social policy throughout different levels of government (Wilson, 2004), the neoliberal project that is transforming social and spatial formations remains incomplete and contested (Hackworth, 2007; Theodore and Brenner, 2005). As Brenner and Theodore (2002) have noted, it is at the regional or city level where the contradictions and tensions of the neoliberal project are most evident. In many ways what follows offers a critical examination of how these material tensions empirically unfold in the City of Hamilton.

Particularly relevant to the current project, the impact of neoliberalism has altered the economic landscape intensifying competition not only between nations but also neighbouring cities. Beginning in the mid-1980s cities began to rebrand themselves as “urban entertainment destinations”, modeling the urban landscape to create themed shopping experiences (Hannigan, 1996 p. 50). As a result, local governments have been forced to take a more entrepreneurial approach to planning, focusing on attracting local economic growth and outside capital investment (Harvey, 1989; Hall and Hubbard, 1996). Within this increasingly competitive sphere, cities that have existing financial infrastructure to support flows of global capital have a natural advantage under these conditions. Cities with existing global appeal are also more likely to receive financial support from higher levels of government. For example, Toronto’s ability to market itself as a world-class city has not only assisted in securing private investment, but has also resulted in a steady flow of capital support from the Federal government since the 1990s (Boudreau et al., 2007).

Attempts to achieve a competitive position within the neoliberalizing economy have influenced city planning and how public and private spaces are regulated (Purcell, 2002; Barnes et al., 2006; Ruppert, 2006). Although municipalities continue to engage in city-wide
comprehensive planning, a majority of city planning now concentrates on smaller project-based efforts to rejuvenate targeted areas (Hall, 2002). In Hamilton, for example, the City’s official urban plan is supplemented with a specific plan for the downtown core; the downtown planning document is in turn supplemented by a plan for Hamilton’s West Harbourfront and over ten micro-level neighbourhood plans.

As an extension of Jane Jacobs’ work which sought to maintain the charm and character of inner-city neighbourhoods (see Jacobs, 1961; Ley, 2012), these recent rejuvenation efforts are part of a shift towards the “new urbanism” which focuses on the creation of accessible and pedestrian-friendly “urban villages” that offer unique cultural, and, perhaps most importantly, economic experiences (Barnes et al., 2006). This village approach reclassifies urban settings as places of consumption rather than production and allows deindustrialized economies to foster new economic roles (Hall and Hubbard, 1996). As in the case of Hamilton, planning that prioritizes urban renewal, even when supported by the investment of public funds, does not guarantee that private investors will take interest in areas of the City prioritized for renewal. For Baeten (2007), this adds a new level of competition between cities as they fight to attract not only consumer dollars but also the creative classes that drive the modern economy. The ability to draw people into the city, both short-term and long-term, depends greatly on the perception of civility and safety in the area. As Ruppert (2006) suggests, “good cities” are not only aesthetically appealing but also places where morally responsible behaviour compliments the environment. In this regard, physical changes to the city have also been accompanied by changes in political rationalities which have prioritized responsible behaviour and a type of entrepreneurial citizenship that enables individuals to manage their daily affairs with little help from governmental agencies (Dean, 2010). It is here that the social dynamic of the city - the
people who occupy urban space - matters just as much as the sidewalks they stand on, the stores they shop in and the green space where they may or may not spend their leisure time.

While historically civility and calmness within cities has been the exception and not the norm (Harvey, 2003, p. 939), the use of mixed-use and consumer focused urban policies have had displacing effects, pushing out working class families, the poor and those who are viewed as disorderly (Hannigan, 2005; Davis, 1990; Hae, 2012). As cities continue to gentrify and as the attractiveness of neighbourhoods is increasingly dependent on aesthetic, economic and moral appeal, the tolerance for disorderly behaviour has drastically decreased (Blomley, 2004). This growing intolerance for disorderly behaviour has been detrimental to the urban poor. Opposed to solving problems in impoverished neighbourhoods, the climate of neoliberalism is such that it has become acceptable within urban policy circles to remove and displace these individuals out of certain areas of the city (Baeten, 2007). Davis (1990), writing within the context of the United States, conceptualizes this as part of a new class war which calculates the interests of the middle class and urban poor as a zero-sum game; the results of which have led to the spatial segregation and aggressive policing of marginalized and undesirable populations thought to be a hindrance to the economic appeal of urban spaces. Wacquant (2009) relates this draconian approach to managing undesirable populations to a broader neoliberal agenda where zero tolerance policies and the ridged enforcement of law seeks to reinforce a sense of morality on the lower classes. As was the case in New York in the 1990s, the roll-out of zero-tolerance or quality of life policing strategies have relied heavily on the use of criminal law to target petty drug-users, prostitutes and racialized youth (see Wacquant, 2009; Harcourt, 2009). Importantly, a growing body of critical scholarship has highlighted the rise in a new assortment of legal tools now being deployed to surveil and control those who threaten the economic order of the modern city.
The role the law plays in regulating city space and those who inhabit it is an important theme in this research. As the above discussion suggests, neoliberal policies have had a considerable influence on how the law is used to control people viewed as detrimental to the economic prosperity of modern cities. Although laws that criminalize vagrancy, homelessness and drug use pre-date the roll-out of neoliberalism, new economically minded policy agendas and growing constitutional concern with existing nuisance laws have led municipal governments to seek more durable means of controlling visible signs of disorder (Beckett and Herbert, 2010). For example, in the last decade cities across the United States have moved towards quasi-criminal sanctions that ban certain types of activities in specific geographical areas. Addressing gaps or perceived inadequacies in existing laws, these counter-laws (Ericson, 2007) have been used to create exclusionary zones that prohibit loitering in areas that are perceived to be prone to drug dealing, prostitution and homelessness (Beckett and Herbert, 2010). Similar ordinances have been used in Chicago to prohibit gang members from loitering without a purpose (Levi, 2009) and to ban spectators from attending illegal streets races in San Francisco (Worrall and Tibbetts, 2006). In Canada, municipal laws have been used to prohibit homeless individuals from misusing urban furniture (e.g., sleeping on city benches) and accessing city parks during certain hours (Sylvestre, 2010). Alongside specific legislation (e.g., Ontario Safe Streets Act), research on homeless youth in Toronto suggests police continually rely on municipal by-laws as a regulatory tool when dealing with youth (O’Grady et al., 2013). Existing research in Canada has also highlighted how municipal zoning laws have significantly influenced the spatial distribution and location of homeless shelters (Ranasinghe and Valverde, 2006) as well as group homes (Finkler and Grant, 2011).
As discussed above, critical urban scholarship has noted a rise in the use of the law and selective policing strategies in managing disorderly people. However, despite the significance of these critical contributions to the literature, Valverde (2012) has argued that qualitative urban research has failed to seriously address and analyze the legal dimensions of urban life. While higher profile laws and ordinances that target certain sectors of the population have been studied, little attention has been given to the enforcement of lower-profile municipal by-laws that govern nuisance behaviour, property standards and land-use (Proudfoot and McCann 2008; Valverde, 2012). Seeking to contribute to the relatively small body of literature and offering a departure from the existing research on the enforcement of municipal law by taking place in Hamilton, Ontario, this study set out to better understand how municipal by-laws and by-law enforcement regulate the conduct of the various social groups who inhabit the City’s downtown core. This study also set out to explore how municipal law enforcement is prioritized and to what extent, if any, municipal laws and their enforcement contributed to broader City objectives, specifically economic growth and the rejuvenation of Hamilton’s downtown.

1.2 The Current Study

While the objectives listed above provided an important starting point for qualitative inquiry, observing the practice of enforcing municipal law revealed a complex and politically-laden process where officers and City officials attempt, although sometimes unsuccessfully, to mediate conflict and restore civility within neighbourhoods. This dissertation will therefore argue that despite the presence of a neoliberal redevelopment agenda outlined in City documents, discussed by planners and some municipal law officials as well as clearly visible in the privately funded development projects restructuring Hamilton’s downtown, most municipal law enforcement is reactive, serving the function of managing neighbourhood conflicts rather than
addressing the physical aesthetics and perceptions of safety in the downtown core that are in keeping with neoliberal economic agendas. As such, this study examines the inconsistencies between some of Hamilton’s broader economic development initiatives and the activities which comprise the everyday enforcement of municipal law. As further discussion will reveal, the causes of this disparity are multiple in part because of municipal politics as well as the complexity of enforcing municipal law in a socio-economically diverse city like Hamilton.

By offering a detailed exploration of the street-level enforcement of local law, this study will also examine the role municipal law enforcement plays in managing disputes between neighbours, businesses, property owners and tenants and often the City of Hamilton and its citizens. By studying the subtle yet powerful discourses that frame municipal law-related disputes, this dissertation will demonstrate how local laws are often used by neighbours and businesses in attempts to exercise power and control over others in their neighbourhoods. In doing so, this study will explore how municipal laws, which are sometimes open to divergent interpretations, become the means by which neighbours attempt to enforce their own perceptions of neighbourhood standards on others and how these same laws are used by businesses to stay competitive in the local economy. Of equal importance, this study will also examine how the interpretation and enforcement of local law is influenced by the nature of these disputes, neighbourhood perceptions and certain City objectives. The convergence of these factors shape the second argument made in this study where it will be put forth that while the law itself is certainly not irrelevant, the investigation of local disputes often expose tensions that extend far beyond the scope of municipal law.

This study will conclude by exploring how the enforcement of some laws, although carried out in the name of health and safety, can and do have serious social implications for those
living on the margins. This discussion will occur within a broader context where it will be argued that as the physical and social landscape of Hamilton continues to change, planning and municipal law officials as well as officers must remain aware of the potential detrimental effects that the enforcement of some municipal laws can have on certain sectors of the City’s population.

In summary, this ethnographic account of municipal law enforcement in the City of Hamilton contributes to the critical urban sociological literature by exposing the complexity of contemporary governance projects and how broader City initiatives sometimes fall by the wayside as officers attempt to maintain neighbourhood civility and ensure the safety of many of Hamilton’s marginalized populations. In doing so, this dissertation makes three central arguments. First, it will be argued that while key elements of a neoliberal agenda are present in City documents, were discussed by City planners and some municipal law officials and visible in the privately-funded development projects transforming Hamilton’s downtown, most municipal law enforcement in Hamilton is reactive and serves the purpose of maintaining order/civility within neighbourhoods opposed to proactively enforcing by-laws that address physical disorder. Secondly, by offering an empirical analysis of the discourses that frame these street-level disputes, this dissertation will argue that while the law itself is not irrelevant, investigations often reveal tensions that span far beyond the scope of municipal law. This study will conclude by arguing that the role municipal law enforcement play in maintaining civility within neighbourhoods is just as vital to Hamilton’s sustainability and growth as the proactive enforcement of property standards by-laws prioritized in Hamilton’s planning documents. This Chapter will now provide some further context on the City of Hamilton.
**Hamilton as a Research Site**

The location of this research is significant for several reasons. To begin, it was Hamilton’s proactive and priority-based approach to municipal law enforcement that shaped the main focus of this study. The link between municipal law enforcement and the rejuvenation of the downtown first appeared in City documents in the mid-2000s as part of Hamilton’s Economic Development Strategy (2005a). Aiming to improve aesthetic appeal and alter perceptions of safety, the strategy suggests the enforcement of laws regulating “garbage, debris, property standards and graffiti problems” will be a pivotal piece in the downtown’s rejuvenation (City of Hamilton, Economic Development Strategy, 2005a. p. 86). Hamilton’s commitment to proactive enforcement was intensified in 2007 when City Council approved the suggestions outlined in a private consultant’s report titled “*Protecting the Future: a Safety and Security Audit of the Downtown Hamilton Improvement Project Area*”. Endorsing the recommendation that property standards, licensing and nuisance by-laws be proactively and “aggressively enforced”, in 2008 Hamilton introduced a new “priority-based approach for by-law enforcement in the City” (City of Hamilton, 2008 p. 30). Hamilton’s commitment to proactive enforcement was once again intensified in 2010 when the City launched a proactive enforcement pilot project called *Project Compliance*. As City documents suggest, between July 2010 and October 2012 the City’s “get tough approach” led to the issuing of over 3000 Compliance Orders relating to violations of minimum property standards and yard maintenance (City of Hamilton, 2012). In early 2012, the City adopted the proactive approach of Project Compliance as a permanent enforcement strategy (with focus on the downtown core).

4 The link between municipal law enforcement and the rejuvenation of the downtown core is discussed in several City documents and private consultant reports. A more detailed discussion of these documents will be provided in Chapter 5.
While the City does use proactive styles of enforcement, ethnographic observations demonstrated that a majority of municipal law investigations were reactive in response to complaints from residents, business and City Councillors. In this respect, a lesser portion of my fieldwork was devoted to observing dedicated proactive enforcement. The focus on the downtown core stayed relatively consistent over the 600 hours spent accompanying municipal law enforcement officials. Nevertheless, while the original plan for this dissertation was to focus exclusively on Hamilton’s downtown, the sheer volume and widespread nature of municipal law related complaints expanded the scope of the data collection to the City as a whole. This offered an unintended, yet fruitful opportunity to observe how the nature and resolution of neighbourly and business related disputes were handled throughout the City.

While municipal law is enforced throughout the City, the downtown core, in part because of its economic expansion, higher density and concentration of rental properties is still where a majority of by-law related issues unfold. Despite pockets of economic renewal, a significant portion of the downtown remains in poor condition, including sub-standard housing and store fronts which have been vacant for years. Similar to the trends identified in the literature on urban renewal, Hamilton’s planning documents suggest the rejuvenation of its downtown plays a vital part in the re-branding of the City’s image. However, re-branding the City’s image is not an easy task. The remainder of this section will provide a brief overview of Hamilton’s downtown. Although municipal law enforcement may play a lesser role in the broader

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5 While all officers are able to proactively enforce in cases where there are clear violations, during my time with the City only 4-6 officers were dedicated to full time proactive enforcements. These officers focused on property standards and worked throughout the City addressing different issues prioritized by Councilors and City officials.

6 Throughout this dissertation, I use the term “downtown core” to denote wards 1-4 located below Hamilton’s mountain.
rejuvenation efforts than City documents would suggest, their daily interactions are very much influenced by the physical and social characteristics of the downtown core.

As a City once reliant on heavy industry, Hamilton lost 24,000 jobs in steel manufacturing alone between 1989 and 2008, the effects of which have been most detrimental to the downtown core (City of Hamilton, Economic Development Strategy, 2010a). Subsequently, the City’s core, the area historically home to those working in industry and now targeted by proactive enforcement, has an average household income almost 15% lower than the rest of the City and almost 25% lower than the provincial average (City of Hamilton, 2006). This area of the City is also home to the highest-rates of poverty and sub-standard housing. According to Mayo (2012), the poverty rate of the downtown core is close to 42% with over 32% living in public housing. Combined with those living in poverty, the disabled, seniors and racial minorities have been identified as the most vulnerable populations when it comes to housing-related discrimination including exploitation through lack of maintenance and harassment (City of Hamilton, 2013). As this research will demonstrate, some of the most politically contentious debates in the City of Hamilton revolve around how to deal with illegal and sub-standard housing.

Not unlike other North American cities, Hamilton as a whole has a shortage of quality affordable housing. City documents suggest there are roughly 5500 households waitlisted for what the City calls Rent-Geared-to-Income housing (City of Hamilton, 2013). Experienced first-

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7 Municipal law operates in a unique jurisdictional framework that often overlaps with other provincial and sometimes federal pieces of legislation. For example, some disputes that begin as property standards or zoning issues also overlap into violations under Ontario’s Landlord and Tenant Act. In other cases, for example potential noise violations in high-rise apartment buildings where no clear street level “point of reception” can be established, officers will still respond and discuss the City’s noise by-law even though these issues could be addressed through the Landlord and Tenant Act.
hand during the fieldwork component of this research and supported by interviews with City officials, this shortage of appropriate affordable housing fuels Hamilton’s private rental market, including the thousands of illegal units scattered throughout the downtown.\(^8\) Making the situation worse is the fact that Hamilton’s privately owned, legal stock of rental housing is aging. Most of Hamilton’s existing rental housing was built prior to 1980 (City of Hamilton, 2013). Census data suggests that 31% of these units need minor repairs and 12.5% are in need of major repairs (Statistics Canada, 2006). As acknowledged in a recent City report, these statistics suggest that roughly 7,600 renter households are living in units that are in need of serious repair (City of Hamilton, 2013).

Illegal and sub-standard housing pose many challenges for the city. Outside of the obvious safety concerns that illegal and sub-standard housing units present, illegal apartments also contribute to the illegal dumping of trash that occurs in the downtown core. At the same time, however, the City’s most vulnerable populations rely on these low rent and often sub-standard units for basic shelter. While the City continues to engage in debates about how to address this issue in the long-term, it is municipal law enforcement who ultimately address this issue on a daily basis attempting to ensure the safety of residents while balancing the pressure to enforce laws that could displace Hamilton’s marginalized populations.

By observing the street level enforcement of municipal law and examining politics that shape many of Hamilton’s strategic policy objectives, this ethnographic study captured the complex and often contested processes involved in municipal governance. In doing so, this

\(^8\) During the course of this research City officials were actively engaged in a discussion about licensing rental housing. As a staff report would suggest, roughly 30% of Hamiltonians who rent, live in what the City would consider an illegal dwelling (City of Hamilton, 2013a). These units are contained within properties that are zoned residential, a designation which requires single-family use.
project is both informed by and contributes to a growing body of governmentality literature which seeks to uncover and explain the multiple actors, processes and power struggles involved in governing modern societies. The following section will briefly discuss the Foucauldian inspired governing security literature. Particular focus will be given to how approaching the qualitative study of municipal law from a governing security perspective unearths the political rationales, process and techniques that inform the prioritization and enforcement of local law.

**Theoretical and Methodological Framework: Governing Security and Municipal Law**

The notion that security is something that can be “governed” is rooted in Foucault’s (1991) work on governmentality.9 Foucault’s (1991) governmentality approach puts forth that since the 18th century governments began to rule through a complex range of institutions whose rationalities aim to align conduct with the objectives of authority (Foucault, 1991). As Rose and Miller suggest (1992, p. 180), the governmentality approach emphasizes that governing occurs “at a distance” through the expert knowledge of planners, doctors, families and social workers, as examples. In the context of this dissertation (and the existing research done in this area), these experts could be City Councillors, planners and by-law enforcement officials. While disciplinary techniques remain an important element within the broader governance scheme, Foucault (1991, p. 1980) puts forth that modern forms of governance also rely on sovereign techniques that attempt to align the behaviour of individual subjects with the ends of government. In this sense, government does not suppress individual subjectivity but rather “cultivates subjectivity in certain form, aligned to specific government aims” (Garland, 1997, p. 175). Foucault (1982) referred to this as the “conduct of conduct”. As Dean (1999 p. 11) explains, “the conduct of conduct refers

9 A more detailed discussion of the theoretical underpinnings of Foucault’s governmentality thesis and the governing security literature will be offered in Chapter Three.
to government attempts to shape with some degree of deliberation aspects of our behaviour according to particular sets of norms and for a variety of ends”.

In keeping with Foucault’s governmentality thesis, the governing security literature suggests the process of security maintenance is a calculated, technical and complex endeavor and involves multiple governing bodies. In this sense, like Foucault’s governmentality thesis, the governing security literature suggests security is governed through a range of governmental, private, commercial and voluntary institutions/organizations (Dupont et al., 2003 p. 331). The view that the act of governing is an activity carried out by many groups of people instead of being associated with one particular group (i.e., state police officers) is useful given the fact that municipal law gives power to a broad range of officials, including building and health inspectors as well as those tasked with policing nuisance complaints.

The literature that theorizes municipal by-laws from the perspective of governance has offered a more in-depth analysis of the political process in which by-laws are enacted, disputed and enforced; this is due, in part, to the fact that those who write about the governing of security view security, not as a thing, but instead as a process that is often contested and sometimes contradictory (Valverde, 2011a). As Johnston and Shearing (2003) suggest, governing security is a messy process involving specific objectives and techniques that rely on the compliance of others. Strategies for governing security involve negotiation, consent and coercion (Johnston and Shearing, 2003).10 As past research on municipal law suggests, studying by-law

10Although the literature on broken windows policing and governing security has been discussed separately there is some overlap between the two perspectives. As well noted in the governmentality (see Rose and Miller, 1992) and governing security (Johnston and Shearing, 2003) literature, modern forms of governance attempt to manage populations opposed to individuals. While neoliberalism influence on security governance pushes for self-
enforcement as a form of governing security makes visible the process by which municipal law is enacted, prioritized and challenged whether internally among planners and Councillors or externally by local residents (see Valverde, 2012). With this in mind, a Foucauldian perspective focusing on how security is governed is helpful in explaining not only the street level enforcement of municipal law but also the complex mechanisms by which city policies and objectives are communicated through bureaucratic channels.

**Methods: Logic(s), Techniques and Scale**

Studied from a Foucauldian perspective, like the act of governing, attempting to accomplish security is a complex, calculated and often failing process involving internal and external conflict (Ranasinghe, 2013). In order to study security projects, Valverde (2011a) has provided a useful Conceptual/Methodological framework which has informed this dissertation’s data collection. Posed as a series of questions, Valverde (2011a) suggests that empirical studies interested in security need to inquire into the logic, techniques and scale of governance projects. As Valverde (2011a) notes, the term logic denotes the rationale, objectives, discourse and even ethical justifications of governance. There are often many different logics informing specific security projects and various stakeholders can interpret those logics differently. The focus on techniques of governing is closely related to the rationales of those who shape projects of governance (Valverde, 2011a). Speaking to the open-endedness and nuanced nature of security governing and responsibilization, regulation also has a punitive edge to it. As Merry (2001) has pointed out, the balance between self-governance and discipline is evident in the spatial relations of the modern city. Using the term “spatial governmentality”, Merry (2001) argues that contemporary cities are themed around consumption (economic and social) and have little tolerance for unruly behaviour. Offering a link to broken windows policing the spatial governmentality approach suggests that governing populations also involves a spatial element where large sectors of the city are themed around responsible behaviour. While security is maintained in these areas through civility, disorderly individuals are excluded through zoning and local laws that ban certain activities from parts of the city (see Merry, 2001).
projects, consideration must be given to the *scale* of governance projects which includes both
temporal and spatial dimensions as well as jurisdiction (Valverde, 2011a).

Drawing on Valverde’s framework, the data that informs this dissertation were gathered
in two different stages. Beginning in April 2014 and ending in September 2014, I spent over 600
hours accompanying Hamilton’s municipal law officials as they carried out their daily task of
enforcing local law.\(^{11}\) During these ethnographic observations, I accompanied 18 different
officers who were responsible for reactively and proactively enforcing a broad range of
municipal laws pertaining to nuisance, property standards, licensing and zoning.\(^{12}\) Given the
broad range of issues governing by municipal laws, data were drawn from investigations that
unfolded everywhere from bars to abandoned buildings and from the lawns of million dollar
homes on double lots to one room units in illegal lodging houses.

In relation to Valverde’s (2011a) Methodological recommendations, observations helped
establish the governance techniques deployed by municipal officials. Through these
observations, I was also able to gain insight into the logic(s) behind enforcement tactics. As the
existing literature on municipal law suggests, the logics that guide municipal enforcement
practices on the streets are often different from the objectives established by council (Valverde,
2012; Proudfoot and McCann, 2008). For example, the logic that justifies enforcement practices
amongst municipal law enforcement officers was often different from the logic informing City
documents and expressed by higher-ranking City officials. As will be discussed in Chapter 4,

\(^{11}\) This observational method has been deployed in several important studies on policing as demonstrated by Bittner
(1965), Black and Reiss (1970), and Ericson (1993).

\(^{12}\) In accordance with requests from the City of Hamilton, a detailed breakdown of the number of dedicated
proactive officers and reactive officers cannot be given.
conceptualizing municipal law as an arm of governing security, observations also helped establish the temporal and spatial scale of by-law enforcement. As will be discussed throughout Chapter 6 through 8, observations also revealed the importance of jurisdiction as municipal law is only one aspect of myriad legal and non-legal codes that govern urban life.13

The second stage of data collection began in October 2014 and concluded in September 2015. In order to gain a better understanding of how by-law enforcement is prioritized and the extent to which economical, spatial and social considerations factor into enforcement practices, twenty semi-structured, one-hour interviews were conducted with City planners and municipal law officials. The goal of these interviews was to gain a better understanding of how by-law enforcement is prioritized in Hamilton and to what extent, if any, the enactment and enforcement of municipal law contributes to the City’s broader goals and objectives. Informed by my time in the field, a portion of the open-ended questions were also aimed at better understanding the root causes of the neighbourly and businesses-related disputes. These interviews also offered insight into the broader governance process and revealed how the logic that guides city-wide improvement efforts varies, not only between City officials and frontline enforcement strategies, but also between City officials.

1.3 Studying Municipal Law in Hamilton in Context

With the exception of Valverde’s (2012) detailed study of the enforcement of municipal law in Toronto and Proudfoot and McCann’s (2008) work on by-law officials in Vancouver, very

13 As will be discussed in Chapter 4, during stage one of my data collection, I also attended planning meetings, committee of adjustment hearings and several specialized task force discussions which focused on safety and security in Hamilton’s downtown and specific development related projects (e.g., Hamilton’s waterfront development).
little attention has been given to the role by-laws play in the regulation of urban citizens as they carry out their everyday lives. Taking this into account, my research in Hamilton contributes to a relatively understudied area of urban sociology. Although the previous research on the enforcement of municipal law helped frame the current project, this research makes several unique contributions to the urban studies literature on the enforcement of local law.

More so than Valverde’s study in Toronto, Proudfoot and McCann’s study examined the role that municipal law enforcement officers play in managing micro level conflict in the midst of economic change. Changes in the socio-economic composition of Hamilton’s downtown neighbourhoods were certainly the root cause of some of the by-law related disputes in this study and, like Proudfoot and McCann (2008), neighbourhood perception influenced frontline officers’ discretionary practices. However, while neighbourhood perception certainly influenced enforcement decisions, more so than Proudfoot and McCann (2008) this study has demonstrated how attempts to ensure health and safety also shaped street-level enforcement decisions. The most notable differentiating factor between Proudfoot and McCann’s work and my own is the methodology. Proudfoot and McCann’s request to engage in ride-alongs was unsuccessful; therefore, their important contribution to the literature on municipal law enforcement was based on interviews. 14 By engaging in over 600 hours of ethnographic observation, this dissertation addresses their suggestion that a more detailed and prolonged look into how the practices of municipal law enforcement influences development within cities is needed (see Proudfoot and McCann, 2008). Proudfoot and McCann’s (2008) study also focused primarily on the factors

14 Like Proudfoot and McCann, I did encounter some resistance from the City of Hamilton before beginning the observational stage of my research. However, in part because of the flexibility of the City of Hamilton’s legal department and the hard work of the administrators and legal representatives at the University of Guelph, an agreement was made that allowed this project to move forward. This process will be discussed in this paper’s methodology section.
that influenced officer discretion. As already established, this dissertation sought to study municipal law within a broader governance process.

While this study shared a similar framework to Valverde’s, there are several important differences. First, the location of this project and the economic challenges Hamilton is facing offered an important point of departure from the existing literature on municipal by-laws and their enforcement. Although Toronto has not been immune to the challenges of the post-industrial economy, the City has managed to maintain a relatively stable manufacturing base while expanding in professional sectors (Sands, 2010). Hamilton’s story is much different. As High (2003) suggests, deindustrialization affected the City of Hamilton in multiple ways. In addition to the high-rates of unemployment experienced in the City since the 1970s, Hamilton has also struggled to rebrand itself as a City capable of sustaining industries outside of manufacturing (High, 2003). Hamilton’s (2010) planning documents are forthcoming regarding the need to attract new types of industry, while also attempting to brand the downtown as Hamilton’s pinnacle destination for unique shopping experiences and world class entertainment. Importantly, as structures of urban governance continue to change, cities have begun to play a more active role in shaping their own urban policy. By “seeing like a city” opposed to “seeing like the state” municipal governments determine their own political rationalities and are able to interpret local law in a flexible manner in order to address their unique problems (Valverde, 2011b; 2012). In this sense, the political rationales and priorities that shape municipal planning and law enforcement in Hamilton are much different from Toronto.

15 Sands (2010) uses the term professional sectors to describe high level service industries like banking and consulting as well as industries like higher education, engineering and technology based occupations.
In addition to the city politics that distinguish this research from Valverde’s, this study’s engagement with the issue of diversity is also slightly different. In part because of Hamilton’s socio-economic characteristics, this dissertation offers a more detailed view of how municipal laws and their enforcement affect marginalized populations, specifically those living in poverty and precarious living arrangements.\footnote{As will be discussed in dissertations methods Chapter, this study’s original goal was to examine the issue of diversity in more depth. However, a research agreement established with the City of Hamilton that allowed the project to take place restricted the collection of data related to diversity.} In this regard, by offering a critical assessment of how municipal laws affect Hamilton’s economically vulnerable citizens this dissertation will offer a modest and unique contribution to the critical urban literature.

This study will also make a contribution to the theoretical literature that is now informing a growing body of critical urban scholarship focusing on the processes in which law, space and society intersect. As a growing body of literature on the governing of security has suggested, more is being done in the name of security. As a result, those pushing the governing security perspective forward have raised the concern that more detailed accounts of how security is accomplished and maintained in practiced are needed (see Zedner, 2009; Valverde, 2011a; Ranasinghe 2013). As the opening narrative alludes to, attempts to maintain and manage security and civility in Hamilton’s neighbourhoods are ongoing, contested and political processes. By studying the processes in which municipal law is enforced and security is governed, this dissertation will contribute to the theoretical urban governance literature by capturing the fluidity of security in practice. This Chapter will conclude with a brief overview of each of the ten Chapters that make up this dissertation.
**Organization of Chapters**

As described in this Chapter, this study set out to examine municipal law enforcement in the City of Hamilton with a specific focus on the extent to which such enforcement contributed to the City’s broader economic redevelopment goals. Laying the framework for what will follow, this Chapter has provided a general overview of this study’s central thesis. More specifically, this study will argue that despite the way municipal law enforcement is prioritized in City documents, a majority of enforcement is reactive and serves the purpose of managing neighbourhood conflict. This Chapter also situated the current study within the existing urban sociology and geography literature. Given the fact that municipal law and its enforcement remain relatively understudied within urban studies, I have outlined how my dissertation will contribute to the existing literature. In summary, the following will offer a detailed examination of how municipal laws operate on the street, and how Hamilton’s municipal law enforcement officers mediate conflicts and attempt to restore civility to local neighbourhoods as the neighbourhoods themselves evolve in the midst of Hamilton’s economic restructuring.

Chapters 2 and 3 of this study provide an in-depth look into the interdisciplinary literature that informs this study. Drawing on the urban sociology and geography literature, Chapter 2 highlights how several decades of social and economic changes throughout North America have shaped how contemporary cities are governed. Taking place within a broader discussion of the “roll-back” stage of neoliberalism (see Peck and Tickell, 2002), Chapter 2 outlines how the erosion of the welfare state, deindustrialization and gentrification have affected the local economies of cities like Hamilton. Chapter 2 also highlights how growing competition between cities has contributed to a rise in the use of entrepreneurial growth strategies focused on drawing in private investment, attracting tourism and creative industries.
Building on the themes discussed in Chapter 2, Chapter 3 provides an overview of the literature critiquing how neoliberalism and more punitive approaches to urban governance have led to widespread social exclusion in cities throughout North America. Coinciding with what Peck and Tickell (2002) have called the “roll-out” stage of neoliberalism, Chapter 3 discusses how revanchism and broken windows policing models aimed at addressing low level disorder have become commonplace within urban policymaking. Chapter 3 also discusses the role the law plays in governing urban spaces with a particular focus on the use of municipal and non-criminal laws. Drawing on an interdisciplinary body of literature, Chapter 3 concludes by reviewing the root causes of conflict within contemporary cities.

Chapter 4 reviews the Conceptual/Methodological foundation of my study. Chapter 4 will revisit the general themes that acted as a starting point for qualitative inquiry as I attempted to examine the logic(s), techniques and scale of municipal law and its enforcement in Hamilton. Chapter 4 will then discuss how my data collection techniques (ride-alongs, attending public meetings and interviews with planners and municipal law officials) led to the emergence of the major themes that occur throughout my study. Particular focus will be given to how the ethnographic stage of my research shaped the direction of my interviews. Chapter 4 will conclude by briefly discussing some of the challenges that I encountered during this project including the negotiation of a research agreement that limited some of the data that I had hoped to gather while in the field.

This study’s results will be presented in Chapters 5 through 8. The primary goal of Chapter 5 is to establish how Hamilton’s rejuvenation efforts are being guided by a neoliberal economic development model aimed at attracting outside investment, new business and members of the “creative class.” Providing historical context, Chapter 5 also discusses how Hamilton’s
longstanding reliance on industrial manufacturing and subsequent deindustrialization has shaped many of the current changes facing the City as it attempts to rejuvenate the downtown. Drawing on secondary statistics (building permits, socio-economic indicators and City of Hamilton reports), Chapter 5 discusses how while Hamilton is experiencing an economic upturn, the City remains sharply divided along economic lines. Data from interviews with planners and municipal law officials will also be discussed in Chapter 5 as part of a broader discussion of how many of Hamilton’s redevelopment plans are contingent upon altering the City’s less than favorable reputation. Chapter 5 concludes by outlining the role municipal law enforcement plays in Hamilton’s broader economic rejuvenation goals.

Chapter 6 offers a detailed discussion of proactive enforcement. Drawing on interviews with planners and municipal law officials, Chapter 6 reviews how Hamilton’s proactive municipal law enforcement is shaped by multiple logics including improving the aesthetic appeal of the downtown and ensuring safety throughout the City. Based on ethnographic observations, Chapter 6 offers a street-level account of proactive enforcement and highlights the frontline challenges associated with upholding property standards, licensing regulations governing Residential Care Facilities, taxis and the nighttime entertainment industry as well as the City’s nuisance by-law. Chapter 6 concludes by discussing how bureaucratic factors place limitations on the proactive enforcement of municipal laws.

Chapter 7 provides a detailed account of reactive municipal law enforcement. Drawing on ethnographic observations and supported with data drawn from interviews with municipal law officials, Chapter 7 begins by offering an overview of the general nature of municipal law related complaints, including how investigations are prioritized. Offering a unique empirical view of how street-level municipal law-related conflicts play out, Chapter 7 describes how disputes over
zoning, noise, licensing and property standards are managed by officers. As Chapter 7 highlights, while most complaint-based investigations relate to legitimate concerns about municipal law violations, there are cases where local laws are used by residents and businesses in a retributive fashion. Likewise, in the process of responding to municipal law-related complaints, officers sometimes find themselves involved in matters most often dealt with by the police. Chapter 7 highlights how situational factors including the demeanor of the parties involved and perceptions of minimal standards or acceptable levels of noise most often shape street-level enforcement decisions.

Chapter 8’s primary goal is to discuss the role municipal law officers play in efforts to ensure the health and safety of Hamilton’s marginalized. Drawing on data gathered while accompanying officers in the field and supplemented with data drawn from interviews with municipal law officials, Chapter 8 describes the challenges associated with maintaining compliance within Residential Care Facilities (RCF) as well as the street-level obstacles officers encountered as they attempted to uphold Hamilton’s vital service by-law. Given the high percentage of poverty and the marginalized reliance on the substandard (and illegal) rental housing market, Chapter 8 will also discuss how an officer’s assessment of financial need, health and safety at times influences street-level enforcement decisions. At the same time, while officers often deployed more accommodating enforcement techniques when interacting with the marginalized, the investigations described in Chapter 8 highlight how these approaches were seldom used when dealing with absentee landlords. However, as Chapter 8 discusses, more punitive enforcement decisions, while aimed at ensuring health and safety did at times result in less than favourable outcomes for the marginalized including displacement.
Chapter 9 offers a thorough discussion of this study’s findings and attempts to explain the inconsistencies between how municipal law enforcement is prioritized within City documents and what my time in the field uncovered. Chapter 9 first puts forth that, although consistent with trends discussed throughout the urban sociology and legal geography literature, this study has offered a detailed ethnographic account of neighbourhood conflict not found within existing literature. Attempting to explain this dissertation’s thesis, Chapter 9 revisits the Foucauldian/governing security literature and suggests the multiple logics framing Hamilton’s municipal law enforcement helps explain why frontline enforcement appeared to share a less direct link to the City’s broader renewal agenda. Integrating Valverde’s (2011a; 2014) questions of security, Chapter 9 will also discuss the role spatial and temporal scale play in the less punitive enforcement decisions officers deployed during proactive and reactive investigations. Drawing on the street-level bureaucracy literature and offering a more detailed account of why policies fail to be implemented as they are planned, Chapter 9 discusses how organizational culture, the complexity of upholding the law and the relationship between municipal law officials and officers influences frontline enforcement.

This study’s final Chapter provides a brief overview of the empirical, theoretical and methodological significance of this study. In addition, Chapter 10 also discusses the limitations of this dissertation and offers recommendations for future research on the study of municipal law. Chapter 10 also discusses this study’s findings and the implications for the City of Hamilton. Here, it will be suggested that municipal law enforcement plays an important role in maintaining civility throughout the City. However, as Hamilton continues to gentrify and experience economic change, planners, municipal law officials and frontline officers must remain aware of the potential detrimental effects that the enforcement of some municipal laws
can have on certain sectors of the City’s population. This latter point is especially true when it comes to housing related issues.
Chapter 2.0 Literature Review Part One: Restructuring the City

The physical and social geography of contemporary cities have been shaped by many political and economic factors. In the last several decades, urban scholarship has paid particular attention to the effects of neoliberal urban policy on city governance.\(^\text{17}\) While it is difficult to deny the pervasiveness of neoliberalism within the urban realm, it cannot be seen as the sole factor shaping the redevelopment and governance of contemporary cities. As will be discussed in this Chapter, neoliberal policy has had uneven effects on North American cities and has been accompanied by sweeping shifts in global economic relations, the re-organization of labour and ideological shifts in city planning and disorder policing. The purpose of this Chapter is to therefore review how these changes of have restructured North American cities. A more critical discussion of how contemporary cities are regulated will appear in Chapter Three.

This Chapter will be divided into two parts. This first part of the Chapter will focus on events coinciding with what Peck and Tickell, (2002) have referred to as the “roll-back” stage of neoliberalism and will include a discussion of the erosion of the welfare state, deindustrialization and gentrification. The second part of this Chapter discusses how competition between cities has led local city governments to adopt entrepreneurial growth strategies aimed at attracting tourism, foreign investment and the “creative class”.

2.1 Part I: The Changing Dynamic of Urban Life

Cities in North America have experienced considerable change over the last several decades. Urban scholarship has described and deconstructed these changes by analyzing patterns of deindustrialization, gentrification, the globalization of the economy and shifting employment

\(^{17}\) A comprehensive overview of neoliberalism will be provided below.
patterns (Brenner and Theodore, 2005). Recent trends in urban research stress the importance of understanding how these shifts have intersected with and have been intensified by the pervasiveness of global neoliberalism. At the same time, this body of literature suggests neoliberalism’s effect on urban politics has been inconsistent, contentious and uncertain (Harvey, 2005; Brenner and Theodore, 2005; Peck and Tickell, 2002). These inconsistencies are most evident at the city-level where local economic structures, culture and history determine how broader neoliberal themes emerge at the ground level (Hackworth and Moriah, 2006; Mitchell, 2001). With this in mind, this section first provides an overview of neoliberal ideology, followed by a discussion of how neoliberalism has influenced the political, social and physical landscape of North American cities. This section also discusses how changes in global labour patterns, globalization and a diminishing social safety net have shaped contemporary cities.

**The Neoliberal Ideology**

Conceptually, neoliberalism is not a theory per se, but rather a framework for economic regulation that attempts to reorganize capitalism by seeking to normalize a free-market ideology at a global and local scale (Brenner and Theodore, 2002). The ideological foundations of neoliberalism call for the deregulation of economic transactions, the privatization of state-owned enterprises, reductions in public welfare spending, and the enhancement of individual property rights (Jessop, 2002; Harvey, 2007). Neoliberalism promotes the extension of the market and the logic of competitiveness while exhibiting strong opposition to all kinds of Keynesian welfare (Peck and Tickell, 2002). The competitive spirit of neoliberalism that promotes competition between nations and amongst cities also trickles down to individuals. While the state remains responsible for setting up the appropriate conditions for individuals to compete within the economy, each individual remains responsible for his or her own well-being (Harvey, 2005).
Although neoliberalism promotes a type of market-oriented citizenship, this model of citizenship also promotes active participation in other spheres, including leisure, domestic work and family life (Broadie, 1997; Giddens, 1998; Dean, 2010). While remaining market-oriented, neoliberal models of citizenship promote responsible behaviour throughout all spheres of life with little reliance on state assistance (Shamir, 2008). As a result, the expansion of competitive forces coincides with the downsizing of the state, financial austerity and reforms to public services (Peck and Tickell, 2002). Importantly, the state maintains its role in creating and maintaining conditions favourable to neoliberalism’s competitive spirit, which includes setting up military, police and legal frameworks to secure private property rights and to ensure the proper functioning of the market (Harvey, 2007). As a result, neoliberalism’s competitive undertones produce a system that restores power to economic elites and makes inequality an inevitable feature of modern society (Harvey, 2007). This monopolization of power has been expedited by significant tax breaks for corporations and members of the upper class. For example, in the United States during the 1980s, the Reagan administration reduced the top personal tax bracket by over 40% while simultaneously lowering minimum wage (Harvey, 2007).

Roll-Back Neoliberalism and the Global Economy

Neoliberalism promotes a free market economy and has heightened competition on global, national and local levels (Brenner and Theodore, 2002). While undoubtedly a powerful force within modern society, the neoliberal ideal does not exist in its “pure” form (Harvey, 2007; Wilson, 2004). However, since the 1970s considerable evidence has emerged that suggests neoliberal thinking has influenced policy on numerous scales.
While traces of neoliberal thinking surfaced immediately after the Second World War as governments began to promote more entrepreneurial and competitive conduct (see Barry et al., 2006), it was the 1970s when neoliberal thought became more transparent in policymaking in the United Kingdom and the United States. As Peck and Tickell (2002, p. 388) suggest, it was during this time period that neoliberalism transformed from “abstract intellectualism” into actual state-authorized policies. In other words, it was during the 1970s that the philosophical visions of economic liberalism promoted by economists Friedrich Hayek and Milton Friedman evolved into actual political strategy. Although examples of neoliberal thinking began to take form in Sweden, Germany and Denmark (King and Wood, 1999), the most notable examples emerged within the political platforms of the Thatcher government in the United Kingdom and the Reagan administration in the United States. During the late-1970s and 1980s both the Thatcher and Reagan governments engaged in aggressive campaigns to deregulate the economy, reduce the power of trade unions and eliminate the perceived culture of dependency embedded within the welfare state (Harvey, 2007; Crawford, 2003). The neoliberal doctrine was particularly evident in Reagan and Thatcher’s attack on the funding of social employment programming (Pierson, 2007). In Canada, the influence of neoliberal thinking was most evident in the shrinking of public sector employment and major reductions in public funding (Clarke, 2002). While not as swift as the changes to unemployment policies in the United States, in Canada incremental moves were made to decrease dependency by shifting away from “needs-based eligibility of social entitlement and labour-market exclusion programs to a model that emphasized selective entitlements, active programming and maximum participation in wage labour” (Broad and Hunter, 2009, p. 29). Despite provincial resistance, Canada’s “Unemployment Insurance” program was replaced by “Employment Insurance” which increased eligibility requirements
while also reducing benefits (Hale, 1998). Drastic reductions to the funding of public education, health care and anti-poverty programs also took place during this time period (Broad and Anthony 1999). In Canada during the 1990s, this broader neoliberal project led to a full on assault on social housing as the federal government withdrew almost all of its support claiming it would no longer be responsible for housing the poor (Hulchanski, 2004). As Hackworth and Moriah (2006) suggest, some provinces were able to temporarily support social housing without federal support while others, like Ontario, followed the lead of the federal government by eliminating funding to social housing and placing the burden on municipalities. In addition to the decline to the international steel industry, thirty years later, cities like Hamilton are still dealing with the effects of these decisions.

Coinciding with the roll-back of social support in Canada, changes in global economic governance have also contributed to the restructuring of many North American cities. As Hall and Hubbard (2006) suggest, the rise of the global-capitalist economy has allowed companies and institutions to move capital investments between countries more rapidly and with ease, which, in turn, has incorporated more countries and cities into the global economy. The globalization of the economy has further been expedited by the loosening of trade agreements and growing advocacy for free market styles of thinking amongst key international financial institutions like the World Trade Organization, the Work Bank and the International Monetary Fund (Harvey, 2007; Peck and Tickell, 2002). While the process of globalization was underway long before neoliberal polices began to take effect, the internationalization of the economy has played a key role in the erosion of the welfare state (Esping-Andersen, 2007; Broad and Hunter, 2009). In general, globalization and the rise of free market neoliberalism are two distinct processes each with their own unique history; however, their histories do intersect. By changing
the economic character of capitalism, globalization created an environment that was almost
tailor-made for the expansion of neoliberal economic policy (Kotz, 2002). In particular, global
competition between cities has been intensified by changes to the political posture of big
businesses who have embraced the opportunity to prosper from the free market economy by
openly opposing state regulation (Kotz, 2002). In doing so, economic globalization and the
hegemonic reach of the neoliberal project has significantly increased competition between
nations and has destabilized once previously prosperous cities (Hall and Hubbard, 1996); this is
particularly true in the case of Hamilton’s declining steel manufacturing industry.

Post-Fordism, Precarious work and Deindustrialization

Consensus exists within the social sciences that the 1970s marked a significant turning
point in economic and social policymaking on global, regional and local scales (Ley, 1996). As
support for the welfare state continued to decline, this time-period also represented a transitional
point in employment throughout North America characterized as the beginning of the post-
Fordist era.18 As Leach (1998) suggests, Fordism was founded on the idea that secure well-
paying jobs supported by a strong welfare system would benefit corporate capital. The
availability of well-paying jobs combined with the increased production of consumer goods
allowed families to live relatively stable lives while driving the economy through consumption
(Esser and Hirsch, 1989). During the height of Fordist era in the 1950s and 1960s, strong union
representation ensured wage security within industrial sectors which was further supported by a

18 This transition has also been described as the move from industrial to post-industrial society. For example, in
Daniel Bell’s (1973) The Coming of Post-Industrial Society, post-industrial society is characterized by shifts from
manufacturing industries to those that are service based, the advent of new science-based industries and increasingly
skilled forms of labour.
stable Keynesian welfare state (Jessop, 1994). In this regard, Keynesian welfare and Fordist labour models became mutually dependent on each other.

While Fordist organization of labour and the support of Keynesian welfare ensured a certain degree of economic stability in the 1950s and 1960s, during the 1970s advances in technology, the globalization of the economy, declining support of trade unions and the growth of service industries contributed to a crisis of Fordism (Esser and Hirsch, 1989). This crisis was marked by the erosion of job security, the polarization of skilled and unskilled work and a growing emphasis on flexibility throughout the labour market (Jessop, 1994; Leach, 1998). The desire for more flexibility in the workforce also led to increases in non-standardized work time and rises in part-time, contract and temporary work (Crease, 2007).

As Ley (1996) suggests, labour market flexibility added a new layer of instability to the North American economy. The crisis of Fordism has also been attributed to advances in technology. Extending Schumpeter’s (1950) proposition that industrial capitalist societies create an ongoing process of “creative destruction”, Freeman and Perez (2000) suggest technological advances create periodic waves of revolution that set new industry standards, leaving some nations and individual businesses behind as they are unable to adapt to new technologies. While Freeman and Perez (2000) argue that advances in technology have influenced the shift to the post-Fordists era, the desire for new technological skills to support just-in-time inventory supply chains, computer aided production design and broad-band communication have added a further barrier for employees who now require new skill sets to stay employable (Clement et al., 2009).

Particularly relevant to Hamilton, North American cities have also been restructured by deindustrialization. First deployed by Bluestone and Harrison to describe the depleting industrial
sector in the United States, deindustrialization involves the “widespread, systematic
disinvestment in the nation’s basic productive capacity (1982, p. 6)”.
This marked a departure
from the post-World War II thinking that encouraged domestic investment and strong
relationships between the state, its labourers and industry (Bluestone and Harrison, 1982).
While
the process of deindustrialization has occurred throughout the globe (Brady and Denniston,
2006), some of the most evident examples of declining industrial manufacturing have taken place
in the “rust belt” (High, 2003; High and Lewis, 2007; Lopez, 2004). Surrounding the Great
Lakes region and bordering parts of Michigan, Ohio, New York, Wisconsin and Ontario, the rust
belt which was once the hub of steel, automotive and rubber manufacturing has suffered
tremendously since the 1970s leaving many cities in economic despair (High, 2003; Hobor,
2012). While estimates vary, it has been suggested that since the 1970s deindustrialization has
been responsible for the loss of between 32 million (High and Lewis, 2007) and 38 million jobs
(Bluestone, 2003) in the United States alone. The drastic decline in industrial manufacturing led
some cities like Flint and Detroit to the brink of bankruptcy. While some employees who
worked in the automotive and steel manufacturing industries were able to find new jobs, these
new positions paid on average 40% less than the wages they once enjoyed (Bluestone, 2003). As
a result, deindustrialized cities also miss out on lost tax revenue within the local economy, in turn
effecting the funding of police and fire services, schools and city parks (Bluestone and Harrison,
1982).

Deindustrialization has not only led to qualitative and quantitative changes in
employment, it also marks a fundamental shift within society itself (Cowie and Heathcott, 2003).
The deindustrialization of many rust belt cities symbolizes the shift away from lower-skilled
manufacturing jobs and a general decline in large-scale industrial work (High and Lewis, 2007).
Deindustrialization not only led to the loss of job security, but also made some workers question whether their skill-sets had a place in more technologically advanced manufacturing fields. In particular, many displaced industrial workers began to question whether hard work alone was enough to stay employable within more high-skilled manufacturing industries (High and Lewis 2007; Hart and K’Meyer, 2003). Many workers also lost the cultural identity and shared common bonds that industrial work provided. For example, the restructuring of Canada’s pulp and paper industry and the resulting job losses also challenged many workers’ sense of competency (Dunk, 2002). Leach’s (1998) findings suggest Hamilton’s steelworkers shared a similar sense of unease, not only fearing the loss of their own place within Hamilton’s deindustrialized economy but also wondering how their children will fair in the future.

Bluestone and Harrison’s (1982) early exploration of deindustrialization shared a similar message suggesting that disinvestment in the local economy would not only lead to the loss of jobs but also effect the emotional and physical well-being of workers and their families. Importantly, multiple factors have contributed to deindustrialization in North America.

For Bluestone and Harrison (1982), the deindustrialization of the mid-1970s was a direct result of industry leaders seeking ways to restore profitability, often by seeking lower-cost labour in foreign countries. In fact, the growing demand and availability of low-cost and unskilled labour in developing countries has undoubtedly chipped away at North America’s industrial core (Brady and Denniston, 2006; Anderson, 1999). This process was expedited in the 1990s by the passing of the North American Free Trade Agreement (Cole, 2009). In addition to the passing of market friendly trade agreements, widespread deindustrialization throughout parts of Europe (Brady and Denniston, 2006) and North America (High and Lewis, 2007) took place during a time period when the choices made by many large industrial manufacturers were made in the
interests of private stakeholders at the expense of the well-being of local communities (High, 2003). While Canadian trade unions were able to persuade members of provincial and federal government to legislate mandatory lay-off notices, pension reassurance and severance packages, the eventual closing of plants and factories had devastating effects on Canadians cities that were often dependent on single industries and employers (High, 2003).

For deindustrialized cities like Hamilton, the road to stability has been tenuous due in part to an inability to adapt to the realities of the new global economy (Hobor, 2012). As evident in post-industrialized rust belt cities like Windsor, Ontario and Flint, Michigan, some cities have turned to consumption-based industries like tourism and entertainment to fuel their economic recovery (Lippert, 2008; Lord and Prince, 1992). As the experiences of Windsor and Flint suggest, economic restructuring around tourism is not only costly for municipalities but also politically contentious. In the case of Windsor, City officials spent a significant amount of time debating whether the tourism industry (including a casino) was a viable long-term solution to the City’s problems (Lippert, 2008).

The deindustrialization experienced throughout North America has not signaled the death of heavy-manufacturing. As Hobor (2012) suggests, some cities have been able to maintain a position within the global economy by attracting transnational investment in heavy-manufacturing. However, most cities that have maintained a competitive edge within the manufacturing field have transformed to lighter, more flexible and technologically advanced forms of production (Hobor, 2012). In this regard, more traditional lower-skilled types of manufacturing have been replaced by research and development oriented styles of production defined by innovation and creativity (Stolarick et al., 2010). These shifts are not just occurring within cities that have experienced deindustrialization. Instead, Florida (2002) proposes that
economically successful cities are those able to attract a new “creative class” of people capable of driving of city growth and prosperity. This adds a further dimension to the entrepreneurial spirit of cities now encouraged by global economic competition. Florida’s creative class thesis will be discussed in more detail below and critiqued in Chapter Three.

**Gentrification and the “New Middle Class”**

As a rather expansive body of urban studies research suggests, cities across North America have also been reshaped by patterns of gentrification. The term gentrification was first used by sociologist Ruth Glass (1964) to describe the revitalizing effects that the movement of middle and upper classes had on low-income parts of a city. In decades that followed, the term has been also used to describe not only the rejuvenation of existing properties in low-income areas but also the development of new housing units (Ley, 1996). More recently, the term gentrification has taken on an even broader meaning and is used to describe the physical redevelopment of inner cities as well as their economic and social restructuring (Sassen, 1991).

The gentrification of North American cities has occurred over a long period of time. For example, while cities like Toronto began to experience the movement of middle and upper-class individuals into low-income areas in the 1970s (see Ley, 1996), cities like Boston, New York and Washington D.C. began to gentrify in the 1950s (Lees et al., 2008). The causes of gentrification within North American cities have been debated. As Slater (2011) suggests, the existing literature on gentrification tends to explain the process from either a *production* or *consumption* model. As Slater (2011) goes on to explain, both the production and consumption model emerged in response to the neoclassical economists’ view of gentrification that suggested
the return of the middle class to the inner city was an inevitable market adjustment that should be celebrated.

From a production standpoint, gentrification is linked to capitalism’s attempt to exploit maximum value from property. As Smith (1979) suggests, this creates an ongoing cycle where land is developed, gradually underdeveloped or left to deteriorate and then redeveloped. Put differently, developers seek out underdeveloped parcels of land and invest with the hopes of higher returns. As more capital is invested in the area and property values increase, investment is systematically reduced in other areas (in part because the profit margins are not economically advantageous). Eventually, underdeveloped areas become developed and capital investors seek out other underdeveloped areas or return to areas where property values have decreased (see Smith, 1979). Importantly, the capital that can be extracted from the value of property in question plays an important role in how quickly an area becomes redeveloped. As Weber (2002, p. 523) explains:

If the building in question is located in an area of concentrated poverty, it may become marginalized as ‘long-turnover’ because the short-term rent gaps is not sufficiently wide to warrant rehabilitation…when the value of the structure declines faster than the ground rents increase, however, it becomes ‘short-turnover’ and demolition – a potential spatial fix – prepares the land for gentrification and building upgrading.

As in the case of Hamilton, the downtown core is experiencing a significant increase in what Weber has defined as short-turnover as older structures are being demolished and renovated for residential and commercial use. However, some of the more marginalized neighbourhoods surrounding the core could be viewed as long-turnover areas (to use Weber’s terms). As will be addressed in further detail in Chapter Five, Hamilton’s shortage of affordable housing contributes to a generally narrow rent-gap in many downtown neighbourhoods. Importantly, the
physical deterioration and social characteristics like poverty found in long-turnover areas also increase the chances of illegal land uses (Weber, 2002).

Particularly relevant to the current project, the “cycle of depreciation and deinvestment is urban creative destruction with a vengeance” (Lees et al., 2008, p. 53). As property values begin to depreciate, landowners are forced to make tough decisions whether to continue to reinvest in their properties and often choose to spend the bare minimum on maintenance hoping that eventually their property values will increase as investors become more interested in the area (Lees et al., 2008). This process is also influenced by city redevelopment agendas. For example, although a controversial issue within urban studies, in some cases municipal governments will intentionally stigmatize an area that has been prioritized for redevelopment (Weber, 2002). This is done strategically in order to appropriate properties that can be rebranded with little risk to potential developers.

If the production model explains gentrification through the ongoing process of development, underdevelopment and redevelopment, the consumption model locates gentrification within the structure of changing occupational and lifestyle preferences during the late 1960s. From this perspective, gentrification is the direct result of the decline in industrial manufacturing and the rise of the service economy, which in turn, led a growing body of young, educated professionals back into the inner city (Lees et al., 2008). Importantly, gentrification symbolized much more than simply the spatial movement of the middle class back into the inner city. As Zukin (1998, p. 826) puts forth, the movement “back to the city” was part of a larger cultural shift away from the separation of home and work and marked an important social diversification of urban life. Importantly, the gentrifiers of the 1970s were not a homogeneous group; rather, they were represented by single males and females, couples, straight and gay.
individuals with and without children (Zukin, 1998). In search of relief from the blandness of suburbia (Slater, 2011), this new middle class (Ley, 2006) actively sought out character rich neighbourhoods in an attempt to reclaim their individual identity. As Lees (2010, p. 393) suggests, this “emancipatory city” thesis is found in a large proportion of the gentrification literature and puts forth that the arrival of the middle class into the inner city is part of a larger quest for agency. The journey that led many gentries into the inner city in search of personal identity has also been attributed to a broader counter movement that occurred in the late 1960s. The same youth who represented the counterculture of the 1960s evolved into the middle class gentries who reclaimed many downtown neighbourhoods in cities like Toronto (Ley, 2006). As well known within urban studies circles, Jane Jacobs’s criticisms of the planning movement in the 1960s expanded beyond academia and into her local city council chambers.

There is little debating that the return of the middle and upper classes into the inner city has significantly shaped the physical and social landscape (Slater, 2011). However, gentrification has had more detrimental neighbourhood effects. While during the 1970s and 1980s gentrification was often associated urban renewal and diversification, the term has now taken on a more negative meaning and is used to describe urban class politics and social conflict (Lees, 2000). For example, some have put forth that gentrification actually increases tolerance as middle class gentries are liberated through their experiences with different people (see Caulfield, 1989). Florida (2002) has put forth similar ideas when describing the movement of the creative class into the inner city. On the other hand, Wacquant (2008) suggests that by increasing rents, reducing housing options and by enacting social policy that encourages middle class oriented urban development, gentrification further sharpens social inequality within the city negatively affecting those reliant on the rental market and those who live in poverty.
Furthermore, the political and cultural elites that now dominate public discussions surrounding inner city development are the same folk who are furthering the neoliberal agenda that is slowly eroding the working class voice from public discussions (Wacquant, 2008).

2.2 Part II: Competitive City: Responding to Change and Planning Economic Stability

As discussed in Part One of this Chapter, globalization, deindustrialization, gentrification and a growing support by local governments for neoliberal minded urban policy has all played a role in reshaping contemporary cities. While these wide-sweeping changes have impacted cities in different ways, there is little debate that cities now compete for consumer-based revenue, foreign investment and the innovative people and industries that are seen by some as catalysts for economic growth and sustainability. As evident in Hamilton, gone are the days when a single-industry ensured economic stability. Of course, this is not to suggest that revitalization is impossible but it does raise important questions. First, in the midst of global economic competition, how do cities like Hamilton begin to rebuild? Perhaps most importantly, how do cities ensure not only short-term economic growth but also long-term stability? Undoubtedly influenced by neoliberal thinking, a growing body of interdisciplinary literature would suggest that there are several key indicators that measure economic growth and long-term stability. In particular, it is thought that cities must be entrepreneurial in order to build the local economy and attract foreign investment. Cities’ abilities to prosper in a growing deindustrialized economy are also dependent on their ability to attract the highly mobile tech-savvy and culturally-conscience creative class. Finally, cities must create and maintain a livable, tolerant and safe urban environment. However, these qualities do not happen on their own, but are believed to involve considerable planning on the behalf of municipal governments and partnerships with private industries. In this regard, the purpose of this section is to not only review the dynamics
of entrepreneurialism, the creative class and the safe/tolerant city but also establish the role that urban planning plays in the attempt to accomplish these indicators of economic urban stability. An in-depth, critique of these growth strategies will appear in Chapter Three.

**The Entrepreneurial City**

The active pursuit of market-oriented conditions favourable for capital accumulation within “territorial boundaries” is not an entirely new phenomenon (Hall and Hubbard, 1996 p. 155). However, in the 1970s, the combination of deindustrialization, rising unemployment and fiscal austerity at local and national levels in Great Britain and the United States, led many city governments to heighten their interest in entrepreneurial urban measures to ensure economic turnaround (Harvey, 1989). As Hall (2002) suggests, it was during this same time period that city planning shifted away from the 1950s model of growth regulation, to a more progressive model that attempted to foster growth through any means possible. Consistent with the neoliberal rhetoric influencing policy at a national level, the reorientation of local economic policy shifted the focus away from welfare provision towards a more outward and market-oriented agenda (Hall and Hubbard, 1996). The economic policies promoted by entrepreneurialism are growth-oriented; focusing on expanding the tax base, job creation, growing local business and drawing in new forms of outside investment (Hall and Hubbard, 1998). The rise in entrepreneurial local governance has been characterized by several features.

First, entrepreneurial strategies attempt to foster economic growth by creating partnerships between local governments and private investors (Harvey, 1989). For local governments, these partnerships assist in ensuring they maintain a competitive advantage by linking private interest to the well-being of the local economy (Hall and Hubbard, 1998).
other hand, this means the interests of private industries are injected into the political sphere (MacLeod, 2002). Together these newly formed political coalitions become powerful forces within local policy circles (Hall and Hubbard, 1996). While influential in shaping urban policy and economic development, the coalition between local governments and private investors does not eliminate counter-movements and political opposition. As Wheeler (2013) suggests, during the 1960s city planning began to endure considerable criticism by a growing contingency of neo-Marxists who exposed the unequal power dynamics within urban planning. Concerned with how the lower class were losing their “right to the city”, critics like David Harvey have had a considerable impact on city planning by pushing for a more inclusive and transparent process (Wheeler, 2013). As a result, from the late 1960s onward, planning shifted to more participatory and communicative models that sought to include a broader audience of community members, developers and local government officials (Wheeler, 2013). In some cases, participatory planning allowed advocacy groups and otherwise unheard voices to enter into the decision making processes of local governments (Lane, 2008). However, as Monno and Khakee suggest, the voices of community members who contribute to city planning often represent a form of “tokenist participation” and are only included in the process to project a sense of inclusiveness (2012, p. 85). This criticism is shared by Purcell (2009), who suggests that, as opposed to creating an avenue for democratic equality, communicative planning models have opened new ways for economic neoliberal minded policy to inject itself into the planning process. Purcell (2002) situates this critique within the spatial politics of neoliberalism that has diminished residents’ say in shaping the direction of their cities. For example, the combination of class alliances, political coalitions, and perceived benefits of economically focused planning has silenced the voices of many local community groups who influenced the strategic direction of
cities like Toronto throughout the 1980s (Kipfer and Keil, 2002). In this sense, the business-mindedness of policy making at the local level favours economic growth at the expense of the distribution of wealth throughout classes (MacLeod, 2002).

Secondly, entrepreneurial strategies shift liability away from private industry onto local governments as much of the redevelopment agenda promoted by entrepreneurialism is speculative in nature and relies on advertising and promotional campaigns funded by municipalities, not private investors (Harvey, 1989). This of course heightens the importance of aesthetic appeal and influences how these spaces are governed. Closely related to this point, the third feature of entrepreneurial strategies is that they focus on the “political economy of place rather than of territory” (Harvey, 1989, p. 7). In other words, redevelopment efforts target a particular area of the city opposed to the city as a whole. For example, in Canada, as evident in Vancouver (Ley, 2012), Toronto (De Sousa, 2002) and in Hamilton (Wakefield, 2007), growing emphasis has been placed on waterfront redevelopment in part because fleeing industry has left large parcels of land underdeveloped and unoccupied (Ley, 2012). Importantly, the focus on redeveloping specific areas of the city cannot be attributed entirely to entrepreneurialism. As Wheeler (2013) suggests, conventional types of planning that focused solely on more technical functions (e.g., ensuring uninterrupted traffic flows) became challenged in the late 1970s by both planners and academics who showed a growing interest in improving the social conditions within specific neighbourhoods.

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19 As Kipfer and Keil (2002) suggest, Toronto City planning became increasingly economically-focused in the 1990s as the City attempted to secure the 2006 Olympics. On the heels of their unsuccessful Olympic bid, the newly amalgamated City of Toronto refocused their planning efforts in an attempt to become a “World-Class City”. As a result, a large proportion City of planning became growth-oriented with land-use decisions favouring private investors, urban intensification and the creation of consumption based spaces. These efforts silenced many of the voices that once played an important role in shaping how spaces were planned in the 1980s (Kipfer and Keil, 2002).
In order to market these place-specific locations, strategic attempts are made to reinvent the image of a particular area by promoting local traditions and stressing uniqueness (Hall and Hubbard, 1996). Reminiscent of Hannigan’s (1998) *Fantasy City*, the promotion of entrepreneurial spaces and the creation of new urban landscapes attempts to blend conspicuous consumption into the lived experience by creating a seductive city centre (Hall, 1998). Importantly, these strategies are not just put into place to entice outside investment: an important aspect of the entrepreneurial city is that redevelopment is embraced by existing residents and businesses. For Hall and Hubbard “…this manipulation of image is not only an attempt to make the city more attractive to external investors but also plays a role in a ‘social control’ logic, convincing local peoples as to the benevolence of entrepreneurial strategies” (1996, p. 161). At the same time, these place-specific projects often divert political attention, concern and even resources away from broader social problems like poverty that may reside within the area (Harvey 1989). This point is particularly relevant to Hamilton as the strategic “place” marketing of condominiums and entertainment districts often reside within, or next to, neighbourhoods plagued by poverty and physical decay.

As Roberts and Schein (1993) suggest, the entrepreneurial approach to urban growth and redevelopment is founded on the idea that, if marketed correctly, cities have the potential to become what Logan and Molotch (1987, p. 13) call “growth machines”. In other words, successful development heightens interest in the area attracting not just other business but also other sectors like healthcare and education (Roberts and Schein, 1993). As this would suggest, the entrepreneurial approach is founded on the notion that if properly promoted, improvements in physical infrastructure and aesthetic appeal will attract consumers and potential long-term residents. While the built environment remains relatively important, Florida (2002; 2005)
proposes the vitality of the modern city hinges on its ability to attract the innovative and culturally-savvy young professionals who make up the creative class.

**The Creative Class**

As Glaesar (2004) suggests, Richard Florida’s *Rise of the Creative Class* has become one of the most popular books amongst urban policymakers in the last several decades. Hamilton’s Strategic Economic Plan discusses Florida’s work in detail, embracing his thesis that the economic vitality of modern cities is contingent on their ability to attract creative individuals and industries. As Florida has acknowledged (2014), the relationship between creativity and urban vitality is not entirely new. Bell’s (1973) detailed discussion of the shift from industrial to post-industrial society was focused largely on the rise of a knowledge-based economy. Parts of Florida’s (2002; 2005) creative class thesis are also attributed to Jane Jacobs (1961) who spoke in detail about the link between vibrant neighbourhoods and creative people long before the *rise* and *flight* of the creative class.

The central premise of Florida’s (2002) creative class thesis suggests companies are no longer seeking labour in the traditional sense, but are instead looking for creative individuals who can engage in complex problem solving using a more knowledge-based skill set. Florida (2002) suggests creativity is the key ingredient driving many industries and cultural fields. He therefore casts the creative net rather wide, suggesting the core of the creative class is comprised of those working in technologically advanced industries, science, education, cultural arts, engineering and architecture (Florida, 2002; 2005). Around this core is a more expansive group of creative people working in business, finance and healthcare (Florida, 2002). Alongside the rise of the creative class, Florida (2002) notes a significant growth in the service class.
Representing the largest sector of society, the service class holds little economic influence but plays an important role in supporting the creative class who are more likely to dine out on a regular basis, have house cleaners and rely on taxis (Florida, 2002).

The rise of the creative class also signifies a shift in cultural norms and attitudes. For Florida (2002, p. 76), the creative class has a strong desire for “individuality and self-statement” which is evident in their nonconformist attitudes towards conventional organizational settings. The creative class also strives to be hardworking and desires constant challenge and stimulation to the point that these factors are equally as important as their wage (Florida, 2002; 2005). This class of creative individuals also openly embrace and celebrate diversity.20 As Florida (2002) suggests, these highly talented individuals defy classifications based on gender, race, sexual orientation or appearance and choose to associate with other creative people. In fact, Florida’s (2002; 2005; 2014) thesis suggests that the creative class is defined by the central virtues of talent, technology and tolerance.

Viewed as a potential benefit for cities who house creative industries and a determent to those who do not, Florida (2002) argues that unlike the previous generations of working class labourers, the creative class are highly-mobile and willing to relocate to cities that offer the best opportunity for them to exert their creative talent and feed their creative tastes. This is particularly relevant to Hamilton which has admittedly struggled in the past to keep graduates from its two major post-secondary institutions within the city limits after they graduate. For Florida (2002; 2005), in order for cities to maintain a significant number of creative individuals,

20 In addition to the percentage of adults with Bachelor degrees, the number of people working in creative industries and patent citations per capita, Florida (2002) also includes a Gay and Bohemian index (those who engage in the arts) into his formula for calculating the creative potential of specific cities.
they must not only be home to innovative industries, but also offer an urban environment that feeds the creative classes desire for unique and culturally-authentic experiences. It is here where Florida’s model for economic stability takes a slight departure from the entrepreneurial growth strategies discussed above.

The entrepreneurial thinking that dominated urban redevelopment strategies in the early 1990s by focusing on transforming urban spaces into fantasy-like places has begun to unravel (Hannigan, 2007). As evident throughout North America, these fantasy-like urban landscapes were, and in some cases still are, dominated by casinos, themed restaurants, massive sports stadiums and heavily-branded retail stores (Hannigan, 1998). While the fantasy city model has been able to sustain itself in some parts of the world, urban dwellers in North America have become increasingly bored with the branded experiences the fantasy city has offered (Hannigan, 2007). This has been attributed to the importance of catering to the culturally diverse tastes of the creative class (Hannigan, 2007).

As Florida (2002, p. 186) suggests:

The physical attractions that most cities focus on building – sports stadiums, freeways, urban malls and tourism and entertainment districts that resemble theme parks – are irrelevant, insufficient, or actually unattractive to [the creative class]…What creatives look for are abundant high-quality amenities and experiences, an openness to diversity of all kinds and above all else the opportunity to validate their identities as creative people. The creative class seeks culturally enriched experiences, preferring neighbourhood-based art galleries, small music establishments and independently operated cafes and shops (Hannigan,

21 Bridge (2006) suggests that the consumption of culture can also be attributed to growing importance of cultural capital within social relations (see Bourdieu, 1984).

22 It should be noted that the creative class are solely responsible for dimming the neon lights of the fantasy city. For example, in his appropriately titled book The Geography of Nowhere, Kunstler (1993) puts forth that the last fifty years of manufactured, non-original and culturally bleak shopping malls, suburbs and city centres has led to a growth in individuality, weakened community cohesiveness and a drastically reduced civil engagement. Kunstler’s (1993) proposed solution to these social ills rests the scaling back of massive enterprises and institutions, reducing consumption and rediscovering public life.
2007). These culturally-unique experiences provide an authentic feel, something not found in manufactured big-box stores, stadiums and casinos (Florida, 2014). Importantly, this does not mean that cities have abandoned the place-marketing strategies influenced by entrepreneurial thinking. Instead, place-marketing has shifted from the promotion of consumption through consumerism to consumption through culture, the latter being an experience only found in neighbourhoods characterized by authentic streetscapes, artistic vibrancy and stylish street corners (Hannigan, 2007). Whether marketing culture or consumer-based goods, the importance of aesthetics cannot be downplayed. As Ruppert (2006, p. 130) has demonstrated, the redevelopment of parts of Yonge Street in Toronto focused on improving the aesthetic appeal and addressed the “poor tastes” and “downtrodden and very cheap appearance” of some businesses. Many of these aesthetic issues were addressed through municipal by-laws.

The creative ethos of this new class has also influenced tourism. As Hannigan (2007) suggests, while tourists are still drawn to cities for consumerism-based experiences like shopping, more tourists are seeking out experiences that involve a creative flair which allows them to participate in, for example, arts, crafts and cooking workshops. What is important here is that the entrepreneurial model for economic growth has not been replaced as cities become more aware of the importance of the creative class. Instead, the entrepreneurial approach has adapted in a way that attempts to attract creative individuals and industries. Whether geared towards attracting consumer dollars, foreign investment or setting up an environment appealing to creative people, these entrepreneurial strategies remain contingent on the livability, tolerance and safety of the city.
Implicit in Florida’s work on the creative class and widely discussed within the new urbanism literature, modern cities must be livable and tolerant. As Wheeler (2013) explains, the popularity of new urbanism has reinvigorated pre-automotive styles of city planning by emphasizing livable, pedestrian-friendly cities and has led to the narrowing of streets, the addition of more sidewalks and better connectivity between neighbourhoods. In addition, the new urbanism movement has called for improved public transit, the discreet placement of parking, high-quality parks and architectural design that is mindful of local history (Ellis, 2002). In an attempt to improve livability, planners and city officials have made considerable efforts to establish a wide range of amenities within small geographical locations. In turn, cities have begun to implement looser zoning restrictions that encourage mixed-use (Wheeler, 2013). Mixed-use and flexible zoning have also been linked to strategic attempts to reverse the “social and economic segregation and the monocultural development patterns” that developed in many North American cities (Talen, 2005, p. 214). Importantly, increased emphasis on livability has not come at the expense of economically minded city planning; instead, the discourse of livability has been infused into the competitive spirit of local planning agendas (McCann, 2007).

While the importance of unique cultural experiences in relation to lifestyle and quality of life can be traced back to the gentrification movement of the 1970s (see Zukin, 1998), the commodification of these attributes has corresponded with the rise of entrepreneurial governance. Zukin (1998) uses the term symbolic economy to capture the development strategies that focus on cultural symbols such as art displays, an array of restaurants, fashion and tourism in order to blend consumption into the general urban experience. The consumption of culture has also been attributed to the pursuit of a unique personal identity. For Featherstone
(2007), the link between culture and lifestyle is tied up in the constant pursuit of an individualized identity. As Featherstone (2007, p. 84) explains “individuals make lifestyle a life project and display their individuality and sense of style in the particularity of the assemblage of goods, clothes, practices, experiences, appearance and bodily dispositions they design together into a lifestyle”. Cities capitalize off this desire, as has been well documented in Toronto where economically focused urban development policies have become increasingly supportive of the integration of culture and an “aesthetic of diversity” (Kipfer and Keil, 2002 p. 236). The promotion of culture and diversity has become a valuable marketing tool for cities that are attempting to rebuild. As Aytar and Rath (2012) suggest, the commodification of ethno-cultural diversity has become a method by which cities now market the once rundown neighbourhoods of the marginalized. The promotion of ethno-cultural diversity and unique neighbourhood experiences are in part a response to the pre-existing patterns of immigrant settlement within the city. What is new is how these ethnically-diverse neighbourhoods and their shopping and dining experiences have been incorporated in the broader competitive landscapes of the new global economy (Aytar and Rath, 2012). Of course this requires strategic effort on the behalf of city officials and planners.

As part of the new urbanism planning agenda, the built environment plays an important role in producing spaces that become the meeting grounds for diverse cultures (Ellis, 2002). As Lees (2012, p. 26) suggests, “…with its emphasis on functional and economic diversification and social diversity…planning has sought to juxtapose different residential, commercial and leisure uses and use of urban space in hetero-spaces (2012, p. 26). The diversification of city space and use cannot be entirely attributed to new urbanism. For example, much of Jane Jacobs’s (1961) work on improving neighbourhood conditions focused on increasing mixed-uses throughout the
city. However, the new urbanism movement combined with a growing emphasis on transit-oriented and sustainable development strategies has made the use mixed-use zoning a staple in the planning agendas of most Canadian cities (August, 2008). As Lees (2012) suggests, growing emphasis on mixed-use neighbourhoods and city districts can be linked to the creative class thesis and Florida’s (2002) proposition that cities that embrace diversity and the sharing of ideas are more likely to prosper in the new creative economy.

Mixed-use neighbourhoods become a natural precursor and a catalyst for creative people to meet. The increased importance of urban density furthers the possibility that a diverse range of people will intermingle as they carry out their daily routines (Jacobs 1961; Lees, 2012). As a residual effect, some urban scholars suggest that these mixed-use urban spaces become a place of increased tolerance. For example, while traces of this argument can be found in some gentrification studies (see Caulfield, 1989) and the work of Jacobs (1961), the connection between diversification and tolerance has been given new life by Florida’s creative class thesis. As Lees (2012, p. 26) suggests “diversity is seen to produce difference, and living with difference is argued to be a positive experience that makes our lives richer and more meaningful, enabling personal development and even fulfillment, and perhaps most importantly produces empathy for our fellow urbanites”. The extent to which this is true will be discussed in the next Chapter.

The Safe City

In the last several decades, local government policymakers have introduced new sets of tools and terminology to measure city growth and sustainability. Not unlike other cities, the emphasis on entrepreneurial growth strategies and the promotion of unique consumer and
culture-driven experiences have become a staple in Hamilton’s planning agenda. However, these growth strategies are almost entirely contingent upon the safety of city districts and neighbourhoods. As highlighted by a rather expansive body of criminological research (see for example, Shaw and Mckay, 1942; Sampson et al. 1997; St. Jean, 2007), crime has a longstanding history as an urban phenomenon. With this in mind, the link between safety and the vitality of neighbourhoods and city districts is far from a new item on city agendas. As Jane Jacobs (1961, p. 30) famously suggested, “the bedrock attribute of a successful city district is that a person must feel personally safe and secure on the streets among…strangers”. While the importance of neighbourhood safety is not new, economic growth-oriented strategies and site-specific redevelopment planning has pushed the issue of safety into the public policy making arena. As Helms (2012: 15) explains, the politics of crime management have been integrated into the “sustainable urban growth equation” resulting in the expansion of surveillance techniques like Closed Circuit Televisions changes to the city’s physical landscape and the advent of new laws that punish and banish those who interfere with the economic order of city spaces. The concern for policymakers is not only the elimination of crime, but also any form of what is considered to be disorderly behaviour that might damage the city’s image. This perception of safety is a key ingredient in redevelopment strategies. As Garland (2001) puts forth, the fear of crime has proven to be an equally powerful force in influencing criminal justice and social policy as actual crime data. For Helms (2012), the perceived risk of crime, or more generally social disorder, creates serious obstacles in the implementation of redevelopment strategies. The perception of neighbourhood safety is particularly relevant to this research. Interviews with several city planners and municipal law officials suggest that one of the biggest challenges for the City is rebranding its overall image and changing the negative perceptions of some downtown
neighbourhoods. A thorough discussion of how safety is maintained will be discussed in the following Chapter.

As this Chapter suggests, North American cities have been restructured by globalization, deindustrialization, gentrification, changing work patterns and a growing support amongst urban policymakers for the market-friendly virtues of neoliberalism. Undoubtedly influenced by neoliberalism, local city governments have begun to engage in entrepreneurial strategies that focus on marketing site-specific areas of the city. Many of these strategies aim to attract the creative people and industries that are viewed by some as the foundational pieces of the new global economy. Importantly, these growth-oriented strategies have been subject to criticism from a growing contingent of critical urban scholars who voice a concern for the exclusionary politics that accompany entrepreneurial planning and the promotion of culturally unique spaces. This body of critical urban scholarship has also raised concerns for the growing reliance on order-maintenance policing and the use of local nuisance laws in regulating behaviour that could potentially interfere with cities broader economically focused agenda. Chapter Three will be devoted to reviewing this body of critical urban scholarship.
Chapter 3.0 Literature Review Part Two: Governing the City

As discussed in Chapter Two, the globalization of the economy, the rescaling of industrial manufacturing and increased regional and local competition have had considerable impact on cities across North America. Many of these changes have been discussed within the context of the roll-back stage of neoliberalism and its influence in the decline of social welfare provisions which have included changes to unemployment insurance, support for social housing and the slow deterioration of the social safety net. As a response to these changes, and as an attempt to stay economically competitive, local city governments have deployed a range of entrepreneurial strategies in an attempt to attract consumer dollars, foreign investment and the innovative industries powered by the creative class that have been touted as the key ingredient for local economic stability. Importantly, these growth formulas have been critiqued for their narrow economic focus which furthers the neoliberal agenda and results in exclusionary politics and displacement.

The first part of this Chapter will elaborate on these critiques while highlighting the broader exclusionary effects neoliberal thinking has had on the regulation of urban space, according to some research. This section will also review the various legal and quasi-legal techniques deployed in the governance of contemporary cities. Specific attention will be given to the roll-out stage of neoliberalism. As this section will discuss, combined with roll-out neoliberalism, urban policymaking has been influenced by undertones of revanchism and generally support broken windows policing models that aim to curb low-level disorder before it escalates into more serious forms of disorder. The punitive mentality of these policy movements has had a direct effect on the use of non-criminal laws, sanctions and land-use regulations when responding to crime and disorder. This section will conclude by examining the role the law
plays in governing the contemporary city and will include a review of the existing literature on the use of municipal and non-criminal laws in the regulation of urban space. The second part of this Chapter will focus on the root causes of conflict within contemporary cities and will conclude by discussing how the present study contributes to the existing urban governance literature.

Neoliberal Diversity: The Dependent, Uncreative, and Unsafe

“By focusing narrowly on the practices and aspirations of the gentrifiers through rose-tinted conceptual glasses, to the near-complete neglect of the fate of the occupants pushed aside and out by urban redevelopment, this scholarship parrots the reigning business and government rhetoric that equates the revamping of the neoliberal metropolis as the coming of a social eden of diversity, energy and opportunity”.

Loic Wacquant (2008, p.198) on present state of gentrification research

Much like research on gentrification, it is easy to read the literature on entrepreneurialism, the creative class and the perceived benefits of cultural diversity through “rose-tinted conceptual glasses”. The ways in which many of these concepts are presented within some urban studies literature mirror the glossy-covered development brochures that litter the lobbies of most cities’ economic development departments. While the positive outlook of many of these strategies may actually contribute to the rebranding of neighbourhoods and assist in changing perceptions of safety and livability, the reality is that cities remain home to significant social, economic and cultural inequality. This section will offer a more critical discussion of entrepreneurial growth strategies, Florida’s creative class thesis and the urban studies literature that focuses on the perceived benefits of livable/tolerant cities.
Entrepreneurial redevelopment strategies focus on the place-marketing of site-specific parts of the city and focus on the consumption of goods, amenities and culture. Critics of this site-specific redevelopment approach note its tendency to reproduce inequality on various scales. For example, Harvey (1989, p. 16) suggests the often hidden consequences of these rejuvenation projects include the geographical reproduction of a dual city, where newly created consumer experiences are surrounded by increasing impoverishment. As Harvey (1989, p. 16) explains, “the trajectory taken through the rise of urban entrepreneurialism these last few years serves to sustain and deepen capitalist relations of uneven geographical development”. For example, Hulchanski (2010) suggests Toronto is best described as a city of disparities not neighbourhoods as the divide between the rich and poor has grown significantly since the 1970s. Adding further depth to the geography of social inequality, the injection of neoliberal thinking into entrepreneurial city governance has valorized the divide between winners and losers, the included and excluded (MacLeod, 2002). As a result, these place-marketed areas of the city have become “seemingly designed to inculcate ‘acceptable’ patterns of behaviour” while disciplining those who do not fit within the new urban aesthetics (MacLeod 2002, p. 606). The politics of exclusion is also at the heart of the criticisms leveled at Florida’s creative class thesis.

While some have criticized Florida for simply repackaging the existing literature on urban growth by replacing human capital with creative capital (see Glaesar, 2005), others argue that the creative class thesis has offered new ways to inject neoliberal thinking into city planning. As Peck (2005, p. 740) explains:

Creative strategies have quickly become the policies of choice, since they license both a discursively distinctive and an ostensibly deliverable development agenda… no less significantly, though, they also work quietly with the grain of extant ‘neoliberal’ development agendas, framed around interurban competition, middle-class consumption and place marketing.
In relation to the normalization of neoliberalism, Peck (2005) also raises questions about Florida’s (2002) proposition that others working in non-creative industries will learn from their creative superiors. Specifically, Peck (2005, p. 760) is critical of Florida’s suggestion that as creative values saturate into the lifestyles the non-creatives, these individuals will learn that “insecurity is the new freedom” and that they are responsible for their own social and financial well-being. While Florida (2014) acknowledges the importance of the service class and encourages policymakers to initiative living wages, he theorizes that the creative class represent only one-third of the population at any given time. Peck (2005) argues that by suggesting a majority of the population are uncreative, Florida’s creative growth formula only normalizes inequality and working poverty. Similar criticisms have been leveled against the social and physical diversification of the urban space and the promotion of consumption through culture.

Embedded in the creative class thesis and engrained into entrepreneurial growth strategies, social and cultural diversification and mixed-use redevelopment are often quite explicit within city plans. While explicitly stated within city planning documents and often accompanied by stock images of diverse streetscapes, the actual diversity of these approaches has been questioned. As Lees (2012) suggests, the true incorporation of diversity requires more than simple abstract acknowledgement, but instead requires a much broader commitment to tolerance and justice. Valverde (2012) draws similar conclusions in her study of municipal politics and by-law enforcement in the City of Toronto. As her study demonstrates, municipal decision-making, including what local laws are or are not enforced attempt to nurture diversity and culture through the economically focused ideals of neoliberalism. In doing so Valverde (2012) demonstrates how diversity and culture become evaluated through an economic lens which tends to cloud debates surrounding racism, inequality and discrimination. The extent to
which mixed-use city planning actually results in the intermixing of diverse individuals is also questionable as a complex relationship exists between diversity and planned spaces characterized by mixed-use zoning strategies and increased density. In fact, the planning literature is skeptical about its ability to foster diversity through built design (Talen, 2005). Despite its continued popularity in Canada, little evidence exists to suggest that mixed-use zoning actually increases the economic or social vitality where the approach is deployed. Instead, as the Canadian experience would suggest, mixed-use zoning only furthers class segregation and does little to improve affordability (Grant, 2002). As research on Toronto’s Regent Park suggests, attempts to increase the socio-economic mixing of people who live in the area actually eroded collective efficacy and lead some young people to become disengaged in community matters as they felt that their opinions no longer mattered in the long-term planning of their neighbourhood (Thompson et al., 2013). At the same time, attempts to integrate market rent units with affordable, rent geared options did little to enhance the social mixing of people with different socio-economic backgrounds within the Regent Park neighbourhood (Thompson et al., 2013). In addition, mixed-use zoning often elevates the expectations of local home or condominium owners put on other businesses and services that also occupy the same space (Proudfoot and McCann, 2008). As Proudfoot and McCann (2008) suggest, businesses that cater to the nighttime economy (bars and nightclubs) become subject to criticisms from local residents over issues of noise, blocked sidewalks and excessive loitering. This is consistent with the conclusions of August (2008), whose research in Toronto suggests that mixed-use aligns more with the economic policies of neoliberalism than it does with the values of inclusion and diversity. Similar criticisms have been made against new urbanism’s planning in general. As Ellis (2002) puts forth, the design features that promote centrally located buildings and
pedestrian friendly streetscapes have been criticized for being offset by panoptic surveillance and forms of spatial control. The various techniques that govern the use of urban space will now be addressed.

Reclaiming the City: Roll-out Neoliberalism, Revanchism and Broken Windows

If the roll-back stage of neoliberalism was characterized by reductions in social welfare provisions and the scaling back of government at all levels, the roll-out stage of neoliberalism is best defined by the strategic deployment of punitive interventions that aim to regulate, discipline and monitor those displaced by neoliberalism’s early stage. While some of the growth strategies discussed in the previous section should be considered part of the roll-out stage of neoliberalism (see Jessop, 2002), the literature on the roll-out stage focuses primarily on more punitive and social control oriented urban policymaking (Peck and Tickell, 2002; Wacquant, 2009). In fact, the punitive undertones of neoliberalism are perhaps most transparent in the wave of urban policy enacted and enforced in the last two decades. As Peck and Tickell (2002) explain, the social and penal policies that emerged in the 1990s throughout North America and the United Kingdom sought to address the shortcomings of the roll-back stage of neoliberalism by deploying tactics that attempted to socialize individual subjects with the values of neoliberalism while simultaneously disciplining the non-compliant. Using the term “spatial governmentality”, Merry (2001) argues the economic mindedness of neoliberal cities has led to heightened concern and intolerance for unruly behaviour and disorder. Offering a link to broken windows policing, the spatial governmentality approach suggests that governing populations also involves a spatial element where large sectors of the city are themed around responsible behaviour. This is consistent with roll-out neoliberalism, which invigorated the use of strategic state-initiated interventions that attempted to curb disorder and eliminate crime while systematically
dismantling what was left of the welfare state. As Garland (2001) suggests, the decline of the welfare state heightened intolerance for not only crime but also disorderly and irresponsible behaviour. Garland (2001) and others like Wacquant (2009) note that the zero-tolerance mentality that has informed punitive responses to disorder has been particularly damaging for the poorer sectors of society (the research discussed below validates this point). The revanchism and broken windows policing literature are good illustrations of this point.

As Kipfer and Keil (2002) suggest, the rise of entrepreneurial planning and increased cultural diversification of the city have been accompanied by a less pleasant attempt by the middle and upper class to reclaim inner city space. Using the term “revanchism” to describe this reclaiming of the inner city, Smith (2001) attributes the move towards more punitive urban policy in recent years to the increasing efforts made by members of the predominantly white middle and upper class to take back the city. As Smith (2001) suggests, the punitive mentality found at the heart of the revanchist city is the attempt to re-establish the civic morality and neighbourhood security that was lost as a result of uneven gentrification in the 1990s. These punitive policies targeted specific groups like racial minorities, feminists, gay and lesbian groups, the poor as well as members of the working class, all of which, revanchists argue, robbed urban elites of their right to the city (Smith, 2001). The revanchism movement also seeks to take back urban space by ridding the city of specific activities like street peddling, homelessness, loud music, prostitution, street art and public urination (Smith, 2001). Importantly as will be

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23 Research on the rejuvenation of Chicago’s Bronzeville neighbourhood suggests that some African American members of the middle and upper class who participate in the neighbourhood planning process do so to benefit their own political and economic agenda and do little to prevent the displacement of lower class members of the black community. These economically minded “black elites” often become the voice of their communities, which acts to further mask the socio-economic inequalities that exists within many black neighbourhoods (see Boyd, 2005)
discussed below, this punitive mentality has been accompanied by a specific style of enforcement.

The premise that low-level disorder can escalate into more serious forms of disorder and lead to public fear appeared in the work of Jane Jacobs and Egon Bittner long before the broken windows essay was published (Ranasinghe, 2012). Despite this, Kelling and Wilson’s (1982) “Broken Windows” essay has become one of the most cited articles within the policing literature (Manning, 2001; Ranasinghe, 2012). According to Kelling and Wilson (1982), if left unaddressed, social disorder in the form of public drunkenness, drug use, prostitution and panhandling has the potential to lead to more serious crime as areas of the city which display these characteristics are perceived as having a breakdown of community controls. The solution offered by Kelling and Wilson (1982) was for police services to engage in “order maintenance” policing to control low-level disorder. As Herbert and Brown (2006) point out, Kelling and Wilson assume that neighbourhoods that are home to physical deterioration and social disorder also lack the cohesion that creates forms of social control. As this suggests, fixing “broken windows” involves much more than simply addressing physical disorder. This is consistent with a growing body of literature on broken windows policing that focuses on policies that address both physical and social disorder (Garnett, 2010). While not all municipal law enforcement in Hamilton is the direct result of broken windows inspired policies, municipal laws do regulate both physical and social disorder.

Broken windows policing strategies have been deployed on numerous geographic scales. For example, using Kelling and Wilson’s work as a guidebook, New York Mayor Rudy Giuliani’s zero-tolerance campaign aimed at eradicating low-level disorder and petty offences in the hopes of eliminating more serious crime and improving the overall quality of life within the
city. While some broken windows strategies focused on high trafficked public spaces like Times Square, the overall thrust of Giuliani’s approach resulted in the over-policing of racialized and impoverished areas of the city and led to thousands of charges and arrests (Smith, 2001; Wacquant, 2009). Sylvester’s (2010) research on the policing of homelessness in Montreal has drawn similar conclusions by demonstrating how broken windows inspired zero-tolerance policies can be deployed throughout wide geographical scales. For example, Montreal’s punitive responses to homelessness were deployed though the entire city as a whole. Although the New York and Montreal cases demonstrate how the broken windows thesis can inform policy on a broad scale, it also influences policy on a micro level by focusing on specific areas of a city. While municipal law enforcement reactively responds to low-level disorder (i.e., noise, long grass, excessive garbage and, in a few cases, actual broken windows), proactive and targeted blitzes tend to focus on specific geographical areas. As Herbert and Brown (2006) point out, by focusing on local scale (e.g., a specific neighbourhood, block or building), the broken windows thesis draws attention away from any large-scale state interventions. These site-specific interventions align themselves with the redevelopment focused agenda of entrepreneurial city planning.

Despite its popularity within urban policymaking circles, the broken windows thesis has been subject to considerable critique. One of the most scathing criticisms of the broken windows policy has been found in the work of Bernard Harcourt (2001). Harcourt (2001) demonstrates how studies which claim to validate the broken windows thesis (for example Skogan, 2001), often rely on very unclear categories of disorder and empirically invalid methods of measuring neighbourhood solidarity. St. Jean (2007) draws similar conclusions, arguing that while some areas of the city may offer an ecological advantage for crime, the general connection between
disorder, negative neighbourhood perception and more serious crime remains unsubstantiated. Likewise, the link between “repairing broken windows” and improved quality of life remains unclear (Chappell et al., 2011). Particularly relevant to this dissertation, Garnett (2004) argues that while regulating property standards and attempting to address disorder through methods like housing and building codes may be attractive to policymakers, they also impose serious economic costs and social costs. For example, strict enforcement of building codes may lead some homeowners who cannot afford repairs to abandon their properties, eventually resulting in demolitions paid for by local governments. While costly to local governments, demolitions also deplete the existing stock of affordable housing units which can have a serious social impact on the local community (Garnett, 2004). Furthermore, addressing physical disorder through quasi-legal methods like building codes and property regulations may “board-up broken windows” but does not draw new business to vacant lots and empty storefronts (Garnett, 2004 p. 26).

Expanding beyond city initiated efforts that address disorder, Garnett’s (2010) broader critique of urban policy suggests that in many cases a city’s misguided efforts to impose “order” actually do more harm than good to neighbourhoods.

Broken windows inspired urban policy has also been criticized for its tendency to stigmatize certain types of individuals as crime-prone or dangerous. As Harcourt (2001) suggests, the order maintenance approach relies on broadly defined categories of what constitutes disorder while putting forth that all disorderly people are potentially dangerous. The broad interpretation of what constitutes disorder can be attributed to what Harcourt (1999: 2001) calls the “collapse of the harm principle” where questions no longer revolve around what is harmful and what is not, but instead focus on the degree of harm and its effect on public well-being. Thus, broadly defined categories of disorder and the selective policing tactics that are
encouraged by the broken windows approach have a tendency to target specific racial and ethnic
groups and punish those in poverty (Harcourt, 2001; Wacquant, 2009).

**Municipal and Local Law: Disciplining the Streets and Addressing Disorder**

Much of the existing literature on municipal laws and local city ordinances has been
framed within broader critiques of neoliberal urban policies, the politics of revanchism and
broken windows policing. With this in mind, and while limited in quantity, the existing research
on municipal law can be placed within three somewhat distinct categories. To begin, a good
portion of the existing literature has focused on the use of municipal law (oftentimes referred to
as “ordinances” in the United States) as a legal tool to govern and monitor disorderly behaviour.
This portion of the literature focuses primarily on the enforcement of municipal law by the
police. Secondly, legal geographers have made a small but important contribution to the
literature by highlighting the role that city planners and zoning by-laws play in regulating space
and land-use. Most limited in quantity is the literature that has examined the enforcement of
municipal law by street-level inspectors (i.e., building and property inspectors and licensing
officers). While this study contributes primarily to the latter two categories, the existing
literature on policing disorder is still relevant as it demonstrates how local law can be used to fill
the gaps that sometimes exist in criminal law. In fact, this research will provide several good
examples of how Hamilton police rely on municipal laws to address issues not covered in
criminal law. The literature on counter-laws will help put these examples in context.

Linked to the tactics of broken windows policing, Ericson (2007, p. 1) has drawn
attention to what he has called “counter-laws”. On one hand, Ericson (2007) has noted the
tendency of local governments to enact counter-laws that pre-emptively regulate disorder. On
the other hand, counter-laws are enacted to address gaps or inadequacies found in existing laws. In the United States, many of these counter-laws are found in the form of municipal ordinances. For example, in an attempt to pre-emptively address gangs in Chicago, between 1992-1995 a “gang loitering ordinance” was put into place which made it illegal to loiter without purpose and led to over 42,000 arrests and over 43,000 issues to disperse (Levi, 2009). In San Diego, an ordinance made it illegal to attend or be a spectator of an illegal street race. The purpose of the spectator ordinance was to address a gap in state law and granting the police extended power to fine or disperse large crowds (Worrall and Tibbetts, 2006).

While research on counter-law demonstrates how municipal law can be used to essentially “counter” the perceived inefficiencies of criminal law, this is not always the case. Although their own research does not focus on by-laws specifically, Beckett and Herbert (2009) have highlighted the expansion of legal regulatory tools and the role civil trespass laws and “off-limit” orders play in excluding ‘unruly’ individuals from public spaces. These quasi-legal tactics allow judges to apply geographical restrictions to some probationers while giving the police further power to detain and arrest individuals deemed “out of place” (Beckett and Herbert 2009, p.15).

Interestingly, and in-line with the use of municipal codes to address the potential gaps in higher-level constitutional law, some cities have begun to integrate municipal inspectors into their broader efforts to address crime and economic blight. As Garnett (2010) suggests, American cities like Tampa, Atlanta and Houston incorporate building inspectors into multiagency “sweeps” in struggling neighbourhoods, often resulting in not only arrests, but also property maintenance orders, which if not complied with, permit local governments to undertake repairs themselves. Hamilton engages in similar practices by conducting monthly multiagency
taskforce (MATF) blitz’s that incorporate Hamilton’s municipal law enforcement, police, public health, fire inspectors and Alcohol Gambling Commission of Ontario officials.

These studies are significant for two reasons. First, as Levi (2009) and Ericson (2007) argue, the enactment of city ordinances demonstrates how laws that are created at a city level are used to regulate the behaviour of individuals in realms not covered under criminal law. Valverde (2005) puts forth that the use of non-criminal laws in Canada, specifically land-use regulations, are in part a response to the fact that municipal governments have little constitutional power when it comes to addressing local issues. This is not to suggest that municipalities always jump at the opportunity to enact new municipal laws in order to expand their regulatory powers. For example, during the summer of 2014, Hamilton City Council debated enacting a new nuisance by-law to address loitering in the areas surrounding Hamilton’s downtown shopping centre, Jackson Square. Siding with several advocacy groups who voiced concerns about the potential harmful effects this proposed law could have on the City’s visible homeless population, Hamilton’s municipal law officials and police agreed that the existing laws could adequately deal with the loitering issue.

Secondly, the literature on counter-laws demonstrates how traditional rights granted under criminal law can be reinterpreted under city law, often disregarding the legal protections outlined in higher level legislation (Levi, 2009). As Garnett (2004) suggests, the attractiveness of property-based regulations stems from not only their flexible-enforcement but also the fact that when they are enforced, they tend to raise little constitutional concern. Valverde (2012) makes similar observations, suggesting one’s right to private property is, to a certain extent, disregarded under municipal laws which set the standards that local homeowners and businesses must meet.
As established in Chapter One, Hamilton’s downtown core is home to a socio-economically diverse population. While the inner city is undoubtedly experiencing signs of gentrification, many residents in the downtown still live in poverty. The effects municipal nuisance citations and local by-laws have on the poor in other cities have been well documented and not surprisingly, most of the existing literature on municipal law and its effects on the poor has been critical. For example, focusing their attention on nuisance citations issued by the Milwaukee Police to landlords in a poorer and predominately black neighbourhood, Desmond and Valdez (2012) have demonstrated the harmful effects local law can have on inner city women. As Desmond and Valdez’s (2012) study suggests, those who persistently called 911 (even in cases of domestic violence) were often evicted by their landlords or threatened with fines. Research in Canada has also highlighted similar trends in regards to municipal law and homelessness.

While the Montreal police still rely on the Criminal Code when dealing with disorder, Sylvestre (2010) has demonstrated a significant increase in the use of municipal laws to govern anti-social and disorderly conduct. Sylvestre’s (2010) research is significant as it demonstrates the social and spatial regulatory aspect of municipal law. On the one hand, municipal by-laws are used in Montreal to govern specific disorderly people (e.g., homeless individuals) through by-laws that regulate the misuse of urban furniture (e.g. sleeping on city benches). On the other hand, her research demonstrates how municipal law can be enacted to regulate the use of specific sections of the city. In the case of Montreal, the local government was able to use zoning laws to set curfews on the use of certain parks most frequented by homeless individuals (Sylvestre, 2010).

24 A more detailed overview of the specific socio-economic characteristics of Hamilton’s downtown neighbourhoods will be provided in Chapter 5.
Research on homeless in Toronto points to a similar trend suggesting alongside specific legislation (e.g., Ontario Safe Streets Act) the police rely on municipal by-laws as a regulatory tool when dealing with the city’s homeless population (O’Grady et al., 2013). Although Hamilton’s municipal law enforcement do not enforce the Ontario Safe Streets Act or use municipal laws to specifically target the homeless, a significant portion of their work involves interactions with those living in poverty. As this dissertation will discuss, the enforcement of municipal law does have the potential to improve the living conditions of those living in poverty. For example, by focusing on improving property standards and ensuring absentee landlords uphold minimum living standards, the enforcement of municipal laws can, and in many cases does, improve the living conditions for many of Hamilton’s marginalized populations who rely on affordable rental options. However, the enforcement of some zoning and land-use laws, if rigidly enforced, could have the opposite effect by further displacing marginalized populations. For example, forcing a property owner to displace their tenant in zoning cases where single-family dwellings have been renovated into multiple dwellings can have displacing effects.

**Urban Planning, Social Control and the Ordering of Everyday Life**

Land-use and zoning regulations play an important, yet seldom acknowledged role in ordering our everyday lives. In this regard, the role urban planning plays in suppressing disorder and regulating everyday life in the city is dynamic. As Garnett (2010) suggests, planners have been concerned with managing potential social disorder long before the broken windows rhetoric entered the policymaking arena. In fact, zoning laws have traditionally been used to “order” urban space and separate industrial, commercial and residential uses. In doing so, planning in a very traditional sense attempted to prevent the disorder that could result from single family dwellings, commercial and industrial buildings all residing in the same neighbourhood. This was
done in part to separate home life from the economic world (Garnett, 2010). Jacobs’ (1961) influential critique of single-use zoning played a key role in challenging this assumption.

Despite its importance, the role that land-use and property regulations play in the broader order-maintenance regime has been neglected within academic debates (Garnett, 2010). However, the small amount of existing critical literature on zoning has highlighted its darker side (Yiftachel, 1998). In general, city planners rarely view their task as a moral endeavor (Yiftachel, 1998). As Ranasinghe and Valverde (2006, p. 328) suggest, traditionally “land-use laws govern spaces and uses and not persons; this by extension also means that land-uses, in-and-of-themselves have no rights”. Despite planners traditionally viewing their work as regulating space not people, recent developments in the urban studies literature have challenged this viewpoint. For example, in Ontario, zoning by-laws have significantly influenced the spatial distribution and location of homeless shelters (Ranasinghe and Valverde, 2006), as well as group homes (Finkler and Grant, 2011). As Finkler and Grant (2011) suggest, “minimum separation by-laws” demonstrate the growing authority given to local governments under municipal law and reveal how city officials can regulate city space through social exclusion. Ranasinghe and Valverde (2006) make a similar argument highlighting that municipal planning legislation gives local governments the power to silence interest and community groups who often oppose the strict guidelines set out by the Ontario Planning Act. As the present study will demonstrate, the enforcement of zoning regulations places immense pressure on municipal officials and has significant social consequences in relation to displacement. While planning certainly does have a dark side and has become favourable to the preferences of developers and private interests,
citizens, landlords and businesses knowingly violate zoning restrictions on a regular basis throughout the city.

_Governing Security and the Bureaucracy of Regulating Everyday Life in the City_

The body of literature examining the enforcement of municipal law by street-level bureaucrats (e.g., building and property inspectors and licensing officers) is relatively small. Situated within the governmentality literature, these studies focus on the broader governance process and examine the various municipal officials, private actors, citizens and most importantly, street-level bureaucrats who enforce municipal codes throughout the city.\(^{25}\) With that being said, this section will first provide a brief overview of the governing security literature. This will be followed by a review of the existing research on municipal law that has been theoretically informed by a Foucauldian perspective.

For Michel Foucault (1991, p. 87), the “art of government” is a rational, calculated and problematic endeavor. As Foucault (1991) outlined in his governmentality thesis, since the 18\(^{th}\) century governments have begun to rule through a range of institutions, decentralizing governmental power while attempting to align the conduct of the population with the objectives of authority. For Foucault (1991), since this time period governments were no longer able to govern through purely disciplinary techniques. As Rose and Miller (1992, p. 131) suggest, “the ideals of government are intrinsically linked to the problems around which it circulates, the failings it seeks to rectify, the ills it seeks to cure”. Problems range from de-population, pauperism, urban unrest and failures of production all of which become crucial issues to

\(^{25}\) Within the existing literature on the municipal law enforcement, the term “street-level bureaucrats” is used to describe the various municipal officials who enforce local laws. For example, the City of Hamilton has several different departments that enforce municipal law including a building department, public health and parking services.
government (Rose and Miller, 1992). In other words, “government came to be a means to an end” in relationship to population concerns (Hunt and Wickham, 1994: 76). For Rose and Miller (1992, p. 180), the governmentality approach argues that governing occurs “at a distance” through the expert knowledge of planners, doctors, families and social workers. In the context of the present research, these experts are made up of the City planners, managers and by-law enforcement officials. In this regard, the Foucauldian perspective is helpful in studying municipal law as it accounts for the multidimensional power relations that frame the daily disputes within the City of Hamilton.

For Foucault (1980; 1991) and other governmentality scholars, power no longer operates in an entirely suppressive manner but instead works in a way that aligns the goals and objectives of the population with the ends of government. As Rose and Miller (1992, p. 174) explain, “power is not so much a matter of imposing constraints upon citizens as it is ‘making up’ citizens capable of bearing a kind of regulated freedom”. This is not to suggest that individual subjectivity is entirely suppressed. Instead, the relationship between authorities and individuals “cultivates subjectivity in certain form, aligned to specific government aims” (Garland, 1997, p. 175). For example, during the 1960s the war on poverty was fought in the United States with the assumption that it was the “powerlessness” of the poor, not the actions of the powerful that needed to be addressed (Cruikshank, 1993). Foucault (1991, p. 95) viewed the role of the law and those responsible for enforcing it as imperative in this process, arguing “it is a question not of imposing law on men, but of disposing things”.

As Johnson and Shearing (2003) suggest, strategies for governing security involve elements of negotiation, consent and coercion and all three are important for several reasons.
First, the strategies that govern security are not entirely punitive requiring, as Foucault (1991) suggests, a balance of sovereign and disciplinary techniques. As this would suggest, the governing security literature extends Foucault’s notion that individual citizens play an active role in the governing process while not abandoning the role of discipline. Regardless, as Johnston and Shearing (2003) suggest, this often contested process guided by specific objectives relies heavily on the compliance of others.

Secondly, while governing security involves specific techniques, what is done in the name of security is diverse. As Johnston and Shearing (2003) suggest, the term “security” is now used in reference to everything from our personal, physical and financial well-being to broader issues of national security. As more is being done in the name of security, the question of how to govern security for the common good has become increasingly important for policy makers (Shearing and Woods, 2003, p. 207). Relevant to this study, these same authors have noted that governing security for the common good can produce undesirable consequences that are more detrimental to those in vulnerable social positions (Shearing and Woods, 2003). The governing security perspective and more broadly Foucault’s governmentality thesis has informed a small but important body of literature on the enforcement municipal/local law.

As Raine and Dunstan (2011) suggest, the lack of attention given to municipal street-level officials is due, in part, to the misconception that local politics play out in council chambers, policy briefings and discussions between residents and elected officials. As research on by-law officials would suggest, the way local law is interpreted, prioritized and enforced is often quite different from the policy objectives set by elected officials. The way that priorities are shaped by council, interpreted by enforcement officials and deployed within the community is at best a “dysfunctional dance” involving high degrees of discretion on behalf of those who
enforce municipal law (Valverde, 2012). In many ways, this ethnographic account of street-level enforcement aims to analyze the root causes of the “dysfunctional dance” of Hamilton’s municipal politics.

There is little doubt that some broad city objectives, strategic and long-term planning goals shape the way municipal by-law enforcement is prioritized (Proudfoot and McCann, 2008; Valverde, 2012). Similar to the City of Hamilton, the prioritization of enforcement is often times shaped through complaints by local residents (Valverde, 2012), justified as a means to maintain the flow of the local economy (Raine and Dustan, 2011) and often times grounded in morality as Hubbard and Colosi (2013) have demonstrated in their research on the licensing of adult entertainment establishments. However, although prioritization is important, the existing literature suggests that the interpretation and discretionary practices of enforcement officials significantly shape the way top level policies are implemented. Lipsky (1980: xii) summarizes this well by suggesting that “public policy is not best understood as made in the legislatures or top-floor suites of high-ranking administrators because in important ways it is actually made in the crowded offices and daily encounters of street-level workers”. This study provides empirical evidence to support this claim.

The decisions that officers make when enforcing municipal law are influenced by situational and institutional factors. In this regard, discretion is of utmost importance. As research on policing suggests, discretion is often shaped by organizational (Alpert et al., 2005) and neighborhood factors (Terrill and Paoline, 2007). Raine and Dunstan’s (2011) research would support this, demonstrating how, in the United Kingdom, traffic and littering by-laws are often enforced in certain neighbourhoods and not in others largely based on organizational pressure and political objectives. These authors demonstrate how municipal officials who
enforce laws governing smoking in public, nuisance and parking are encouraged to ticket while officials who enforce laws regulating local businesses are encouraged to use discretion when using formal sanctions (Raine and Dunstan, 2011). Valverde’s (2012) research reinforces the importance of discretion and suggests officer’s enforcement decisions are often shaped by situational factors including the demeanour of the parties involved in the investigation. This dissertation will contribute to this literature by demonstrating how street-level discretion is often complicated by the strategic direction of Hamilton’s redevelopment agenda as well as officer perceptions of safety.

Similar to the findings in the policing literature, discretion is also shaped by officers’ perceptions of certain neighbourhoods. In fact, how individual enforcement officers perceive certain areas of the city shape their discretionary practices as well as how municipal law is interpreted (Proudfoot and McCann, 2008). Proudfoot and McCann (2008, p. 356) use the term “geographical imagination” to describe how “sets of opinions, assumptions and ways of seeing/speaking about areas affect the decisions inspectors make and what they see as appropriate in given spaces”. For example, in Vancouver minimum property standards are often enforced based on the standard demonstrated in the neighbourhood, not a model definition of “untidy property”. Importantly, individual perceptions of neighbourhoods and their perceived spatial boundaries are established by individual enforcement officers (Proudfoot and McCann, 2008). Valverde (2012) points to a similar trend where enforcement techniques are more likely to be shaped by an officer’s perceptions of certain parts of the city. For example, what constitutes a lawn garden in Toronto depends largely on officers’ perception and is also influenced by the cultural diversity found in certain geographical areas (Valverde, 2012). As discussed in Chapter One, this study will contribute to this literature by arguing that officers’
perceptions of safety are just as important as their geographical imaginations or existing opinions on certain neighbourhoods. This chapter will now conclude by discussing social cohesion, collective efficacy and the root causes of disputes within neighbourhoods.

3.1: Neighbourhood Conflict

One of this study’s key arguments is that Hamilton’s municipal law officials play an important, yet often unacknowledged role in maintaining neighbourhood civility and managing daily disputes between neighbours, businesses and property managers and their tenants. While it is the potential violation of the law that draws municipal officials into the middle of neighbourhood disputes, investigations often reveal deeply rooted tensions between both neighbours and businesses. This section will provide a brief overview of the neighbourhood politics and spatial dynamics that contribute to these disputes. It will conclude by offering a final critique of neoliberalism.

Structuring Urban Conflict

Conflict and incivility are inevitable consequences of urban life (Harvey 1989). A long list of early sociological accounts of the city give merit to this claim (see Park, 1916; Simmel, 1943). For some (see Jacobs, 1961; Sennett 1970), social disorder is not only an inescapable fact of urban life but an indicator of a healthy neighbourhood. Like some of the more utopian accounts of gentrification, both Jacobs and Sennett saw the mixing of people, cultures and races as an indicator of vibrancy. However, as a thorough reading of this chapter has suggested, much of the literature on urban conflict and disorder has been written from a critical viewpoint. As Logan and Molotch (1987) put forth, a substantial portion of this critical literature is written by neo-Marxists who draw attention to the uneven class relations that inevitably form under
capitalist relations. This is evident in studies that link urban conflict to class interests (Davis, 1991), access to domestic property (Saunders, 1978), and cultural clashes (Ross, 2007). As more recent studies suggest, many of these economically influenced conflicts have been intensified by the spatial politics of neoliberalism, attitudes of revanchism, broken windows and order-maintenance policing. Moreover, the punitive mentality that is presently shaping the spatial divide has been exported throughout the developed world (Wacquant, 2009). Detailed studies of numerous North American cities provide vivid examples of the growing intolerance for any behaviour that may interrupt the expansion of the free-market economy (Fitzpatrick and La Gory, 2000; Davis, 1990; O’Grady et al., 2013). At the same time, while critical urban scholars have shed important light on the structural inequality that often manifests itself in urban relations, few detailed studies exist on the micro details of neighbourhood conflict and disputes. The existing studies on localized neighbourly disputes focus primarily on why people engage in local activism over issues within their neighbourhood (see for example, Davis, 1991; Purcell 2002). More so than other studies, Valverde’s (2012) research on municipal law and Toronto City politics demonstrates how municipal officials often intervene in localized conflicts that centre on issues of aesthetics, taste and quality of life. While broader economically minded City politics do shape some enforcement, Valverde’s (2012, p. 100) research demonstrates the importance of the micro dynamics of neighbourly conflict and the role “grassroots champions of the local” play in representing their City blocks in the municipal forums.26 While the local activists or the grassroots champions of Hamilton certainly play an important role in representing their neighbourhoods, this should not be taken as a sign of neighbourhood civility. On the contrary, as Davis (1991) suggests, the same neighbourhoods that can find common ground on

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26 Valverde (2012) uses the term “grassroots champions of the local” to describe local neighbourhood activists.
one issue are often divided on another. Much of this incivility has its roots in what some see as the decline of social solidarity within neighbourhoods.

While the idea of the gradual deterioration of community solidarity has been a concern for some time (see Park, 1916), recent accounts have gone as far as to suggest that “community” as depicted in the heydays of the 1950s and 1960s has vanished. For example, in *Bowling Alone: The collapse and revival of American community*, Putnam (2001) suggests cumulative effects of declining levels of participation in civic engagement, the individualizing effects of technology and a growing distrust between neighbours has led to a drastic decline in both social capital and community cohesiveness. As Sampson (2012) puts forth, the term community is often used with hesitation in urban studies as the unity, commonality and cooperation that once defined communities has been replaced by more impersonal ways of negotiating social relations within the city. In this sense, ties to the local community matter increasingly less and play a smaller role in shaping the lives of people who inhabit the city (Crow et al., 2002). This, of course is not to suggest that collective efficacy does not exist. Literature on community planning (Jun and Musso, 2013), local activism (Davis, 1991) and municipal law (Valverde, 2012) suggest that community and neighbourhood groups do mobilize to address local issues like nuisance, public safety and environmental concerns. However, there is a micro-dynamic to neighbourhood conflicts that has seldom been examined empirically. As this research will demonstrate, the debates that litter City Council agendas in regards to zoning, redevelopment and public transit, represent only a small portion of the daily conflicts that play out throughout cities like Hamilton. And, unlike the debates that take place in council chambers, the street-level conflicts that municipal law officers respond to on a daily basis often involve quite heated discussions between neighbours, businesses and landlords over issues that often stem from rather subjective
interpretations of local laws and personal perceptions of what constitutes a quiet, aesthetically appealing or safe neighbourhood.

Neighbourhoods are complex and contradictory places. On the one hand they force upon people physical closeness while, on the other hand, they are inhabited by people who often desire a certain amount of social distance (Crow et al., 2002). As these authors suggest, respect for privacy does not prohibit meaningful relations between neighbours; however, what constitutes “friendly distance” is plagued by uncertainty, especially in neighbourhoods with high residential mobility (Crow et al., 2012 p. 142). As this would suggest, neighbourhood proximity matters and while small in comparison to the literature that links conflict to structural explanations (e.g. cultural, class and racial disputes), existing research on neighbourhood density, crowding and conflict is equally as important to this dissertation. As Merry (1987, p. 35) explains:

Spatial proximity inevitably produces certain kinds of intrusions or annoyances among the households that share the space…intrusions may take the form of noise, smells or visually observable messes…they may be produced by mobile members of households such as barking dogs and children, or they may result from the social interdependence of people who live together…the appearance and upkeep of one person’s house makes a statement about the other houses in that neighbourhood and the nature of that neighbourhood as a whole.

As Merry (1987) goes on to suggest, most neighbours find ways to deal with these daily annoyances without the need for mediation or legal intervention. While Merry is not incorrect in suggesting that most people find ways to address neighbourly issues on their own, there remains a sizeable number of disputes that cannot be resolved through friendly conversation. As this study will demonstrate, many of these disputes, while relating to what Merry (1987 p. 36) refers

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27Davis (1991) draws attention to the connectedness of broader social cleavages that revolve around issues of race, religion and class and local community conflict. Specially, Davis (1991) argues that it is within the local neighbourhood that racial, religious and class conflicts are manifested.
to as “intrusions of shared space” are also things regulated by municipal law. The literature on the presentation of space helps frame these localized perceptions.

**The Presentation of Space**

As Helms (2008, p. 58) suggests, the discipline of geography has made a considerable effort to better understand “the relationship between people and their environment through different notions of space”. In order to achieve this, geographers have adapted expansive definitions of space. Lefebvre (1991) for example conceives space as a triad characterized by spatial practice, representations of space and representational space. While a full examination of Lefebvre’s *Production of Space* (1991) cannot be offered in the space provided, Purcell (2002) suggests that Lefebvre’s central argument stems from the belief that social relations are bound up in lived spaces which are the result of the convergence of perceived and conceived spaces. As Purcell explains;

Perceived space refers to the relatively objective, concrete space people encounter in their daily environment…conceived space refers to the mental constructions of space, creative ideas about and representations of space…lived space is the complex combination of perceived and conceived space…it represents a person’s actual experience of space in everyday life (Purcell, 2002, p. 102).

As Purcell (2002) and Soja (1996) suggest, our everyday interaction within urban spaces involves the constant interplay between material aspects of perceived spaces and a more subjective, conceptual and imagined vision of what those spaces mean to us personally. Purcell (2002) points out that people’s perceptions of urban spaces are based largely on conceptual and historically rooted ideas of what a neighbourhood should look and feel like. For some, issues of race, gender and class play an important role in shaping this conceptual aspect of space. As Jackson (1998, p. 188) suggests “the meanings that people attach to particular places are culturally mediated through experience and use and vary according to differences in ethnicity,
class, gender and generation”. However, on the other hand, when it comes to local activism, Purcell (2001) suggests neighbourhood groups’ concerns are framed almost exclusively through a geographical lens that focuses on the conceptual elements of space and seldom acknowledges issues of class, race and gender. As this study demonstrates, perceptional ideas of space inform many local level municipal law-related conflicts.

**Conclusions**

Like part one of this literature review, this chapter has set out to situate the current project within the existing sociological and urban geography literature. In doing so, this chapter provided a critical review of how entrepreneurial growth strategies that attempt to attract consumers, outside investment and creative industries have been accompanied by the disciplining of urban space, carried through order-maintenance policing styles that have in turn, led to the intensification of social exclusion. As this chapter suggests, broken windows inspired policing strategies have had considerable impact on how disorderly behaviour is defined and addressed. While important studies have demonstrated how this approach has influenced the use of municipal laws and ordinances to control gang activity (Levi, 2009), punish the poor (Wacquant, 2009) and regulate the homeless (O’Grady et al., 2010; Sylvestre, 2010), these studies have focused primarily on how broken windows inspired strategies have been carried out by the police. In this regard, this dissertation will offer a unique empirical perspective on the extent to which the broken windows thesis influences the street-level enforcement of municipal laws. Finally, this research will contribute to the rather limited body of literature on the micro-dynamics and spatial politics of neighbourly conflicts. In doing so, this study will demonstrate the important yet seldom acknowledged role that municipal law enforcement officials play in
maintaining neighbourhood civility. Chapter Four will now turn to the methodology used in this thesis.
Chapter 4.0 Methods

“May I see your Licenses Please Sir”?

Like most Friday nights, Hamilton’s downtown bus station was a flurry of activity. Parked directly in front of the terminal, several taxis waited to be called into service. Like clockwork, as the first taxi in the row left the designated taxi-stand another would arrive at the end of the line. Sitting across the road from the station in an unmarked City vehicle, the officer I was accompanying that evening outlined the numerous challenges associated with maintaining “compliance” with the section of the City’s licensing by-law (#07-170) which regulated taxis. In addition to illegal taxi plate subleasing, the officer outlined a long list of concerns including unsafe vehicles, unlicensed drivers, unsealed fare meters and malfunctioning interior cameras.28 Given the high percentage of Hamiltonians who rely on the taxi industry for transportation the officer noted how management and City council were concerned for the safety of riders and keeping the industry “in check”. At the same time, given the over 440 taxis in Hamilton, the officer admitted the evening’s proactive taxi enforcement blitz was more about “letting the drivers know the City is taking compliance very seriously” opposed to “fixing some of the larger problems within the industry”. As the officer went on to explain, compliance within the taxi industry has always operated in a pendulum-like fashion. More recently, the pendulum had shifted away from compliance.

28 Hamilton City council determines the amount of taxi “plates” needed within the City. According to licensing by-law, the owner of a taxi plate may lease the plate to another party. However, the party who leases the plate from the owner cannot then sublease it to a third-party. The City of Hamilton also determines taxi fares. In order to ensure that taxi meters are not tampered with, the City installs a small lock on each meter. The owner/operator of the taxi cannot remove or alter the lock. The licensing by-law also requires that all Hamilton taxis have a City installed camera that must be operational during all times. In order to ensure compliance with the licensing by-law all Hamilton taxis are inspected twice a year (at a cost to the operator).
After logging on with the Hamilton Police dispatcher, a standard practice during night time enforcement, we left the parking lot and headed towards the designated taxi-stand located in front of the bus terminal. Parking behind the last taxi in the line, the officer and I quickly exited the vehicle and proceeded to speak with each driver requesting their driver’s license, City-issued taxi license and proof of insurance. The officer inspected each car to ensure there were no obvious safety issues, the meter seals were intact and the cameras were operational. While some were polite and noted how the officer “was just doing their job”, several taxi drivers voiced their frustration over the rigid and financially burdensome requirements outlined in the “taxi by-law”. One driver in particular who was quite upset suggested the City’s taxi by-law and inspection requirements were “just a bull-shit ploy by the City to make money”. As the driver went on to explain, the overhead costs of driving a taxi in Hamilton combined with by-annual inspection fees meant he was “barely breaking even” during some shifts. Presumably knowing they were not complying with the section of the licensing by-law regulating taxis, another driver parked several cars in front of the taxi the officer was inspecting, quickly sped out of the terminal. Hearing the squeal of the tires, the officer turned to me and said, “Well I guess he didn’t want to talk to us”.

Pulling out of the designated taxi stand on route to a new location, the officer noticed a lone taxi parked in a small area clearly marked as a “public drop-off/pick-up location”. Located in closer proximity to the front entrance of the terminal, the officer explained how some taxi drivers would use the spot to “scoop up” passengers without having to wait in line at the designated taxi-stand.

Like the inspections performed moments before, we approached the illegally parked taxi on the driver’s side. After explaining to the driver how he would need to move to the designated taxi-stand.
area, the officer requested to see his licenses and insurance documents. Noticeably angered by the officer’s request, the driver handed over his documentation, cursing under this breath how he was “being targeted by the City”. Motioning for me to step away from the taxi, the officer quietly informed me how this particular driver had caused problems during past inspections. Showing me the expired taxi license the driver presented, we returned to the taxi where the officer asked if the driver had a more recent copy of his license. After several tense moments filled with more accusations by the taxi driver, the officer was presented with a valid taxi license. Reminding the driver about the importance of carrying all of the required documentation, the officer returned the valid taxi license and explained how he was going to be keeping the expired license. Now enraged, the taxi driver violently pushed open his door forcing the officer to take several steps back. Directing his anger towards both the officer and me, the taxi driver aggressively slammed his fist on the trunk of his cab, this time accusing the City of targeting him because of his race. Sensing that the situation had escalated to a point where our safety was in jeopardy, the officer motioned for me to return to the vehicle. As the officer and I slowly retreated to the safety of the vehicle, the enraged taxi driver followed close behind, repeating allegations that he “was being targeted” by City officials.

Now inside the City vehicle, the officer locked both doors and radioed Hamilton police dispatch that “we needed some assistance with a distraught taxi driver at the downtown bus terminal”. As the taxi driver continued to pace back and forth in front of our vehicle, the police dispatcher calmly responded that she would send out a “unit” to assist us. Fearing he had understated the urgency of the situation, the officer informed the dispatcher “that he would need assistance as soon as possible”. Presumably hearing the distress in the officer’s voice which was broadcasted
across the downtown Hamilton police radio channel, several “units” in the area chimed in and suggested that they were on route. 29

As the taxi driver continued to yell mere inches away from the driver-side window of the City vehicle, the officer remained silent keeping his hand poised on the shoulder-mounted microphone of his radio. Frozen in the passenger seat, I starred anxiously at the digital dashboard clock momentarily pondering why the time had been stuck on 9:21 PM for what felt like an hour. Just as the clock turned to 9:22 PM, the taxi driver’s persistent yelling became almost immediately silenced by the sirens of the first responding police officer. Within moments, two additional police vehicles arrived, including one that arrived by travelling the wrong way down the one-way street that the bus terminal was located on.

Concerned for my safety, the officer instructed me to wait in the vehicle until the police “settled this guy down”. While at first the presence of three police officers did little to calm the taxi driver, after several minutes the situation de-escalated. Having exited the City vehicle, I stood with the by-law officer as he discussed with two of the responding police officers the details of the altercation. Coming to a consensus there was no need to charge the driver with a criminal offense, the by-law officer explained to the police officers how the incident would be documented and most likely be brought before the City’s licensing tribunal where the driver could lose his taxi license. 30

After being reminded his expired taxi license would be confiscated, the driver was encouraged by the by-law officer to use the designated taxi-stand next time he was in the area. Returning to

29 Hamilton Police use several different radio channels throughout the City including a channel dedicated to the downtown. Unlike some police services, Hamilton uses a digitally-encoded channel that cannot be accessed by members of the public and/or the media.

30 Hamilton’s licensing tribunal hears cases where the conditions of City issued licenses have been persistently violated. In most cases, an appearance in front of the tribunal comes after a series of charges/tickets.
his taxi the driver drove away. After a brief discussion with the police about some of the challenges associated with regulating the taxi industry, we returned to the unmarked city vehicle and proceeded to drive to a neighbouring parking lot so the officer could document the events that unfolded over the last hour. Satisfied he had adequately documented the encounter in his notes, he advised me that it would probably be best to continue the taxi enforcement blitz in a different location.

Walking from the parking garage back to the municipal law offices at the end of the six-hour taxi enforcement blitz, the officer and I discussed the events that had unfolded over the course of the shift. While no tickets were issued, the officer deemed the enforcement blitz a “success”, suggesting the roughly 40 different taxi drivers that he stopped and inspected would appease the supervisors. He went on to explain how the conversations we had with the taxi drivers also helped the City to “stay on top of the issues within the industry”. In fact, several taxi drivers had been very vocal about feuds with other drivers and the problems they faced when asking the owners of the taxis they drove to address safety issues and make necessary repairs. Letting out a large sigh we entered the dimly lit municipal law offices, the officer turned to me and remarked “well Rory, I bet you didn’t think enforcing the licensing by-law would be this interesting”.

* * *

The purpose of this Chapter is to review this dissertation’s Methodological approach and discuss the specific techniques that were deployed in studying municipal law enforcement in Hamilton. This Chapter will then discuss how the Methodological/Conceptual recommendations found within the governing security literature (see Valverde, 2011a; 2014) helped guide the content analysis, ethnographic and interview components of this study. This Chapter will also discuss several of the critiques/challenges associated with qualitative research on law
enforcement and how the present study sought to address these issues. With this in mind, the narrative described above highlights several key themes discussed throughout this Chapter.

First, as the events described above suggest, there is a complexity to the enforcement of municipal law that cannot be entirely captured through a purely quantitative approach. While secondary statistics were utilized when discussing the socio-economic changes taking place in Hamilton, the ethnographic method deployed in this study made visible the complicated and contentious process of enforcing street-level law that are not available from other data collection methods (e.g., a large self-report survey). At the same time, observing the street-level enforcement of municipal law does not offer a complete picture of how municipal law enforcement is prioritized in relation to broader City objectives. As will be discussed below, semi-structured interviews with City planners and municipal law officials helped establish the numerous social, political and economic factors that shape how the enforcement of certain municipal laws are prioritized. Lastly, the events described above demonstrate how the enforcement of municipal law is often met with resistance and can generate unintended effects. Not unlike some of the discussions that took place during the enforcement of other municipal laws, numerous taxi drivers protested the enforcement of taxi regulations suggesting the cost associated with maintaining “compliance” had serious financial consequences.

4.1: Conceptual Framework: Municipal law Enforcement as a Project of Security

Problems of government should be analyzed in terms of governmental technologies, the complex of mundane programmes, calculations, techniques, apparatuses, documents and procedures through which authorities seek to embody and give effect to government ambitions (Rose and Miller, 1992 p.172)

31 Later on, this Chapter will provide a more thorough discussion of who participated in the interview component of this dissertation.
This dissertation’s Methodological framework is shaped by the Foucauldian inspired governing security literature. From this perspective, use of the term “security” has become associated with numerous governance projects and in recent years become synonymous with efforts to ensure safety and stability in developing countries (i.e., human/food security) and guard against cybercrime (i.e., internet security) (Johnston and Shearing, 2003). Efforts to maintain order in urban spaces has led to a proliferation of public and private policing strategies, many of which operate under the broadly defined moniker of security (Johnston and Shearing, 2003 Zedner, 2009; Valverde, 2011a). The security nomenclature can also be found within municipal planning documents. For example, as will be discussed in more detail in the following Chapter, Hamilton’s Downtown Cleanliness and Security Taskforce has identified “safety and security” as important elements in the City’s urban renewal agenda. This has in turn, influenced how the enforcement of municipal laws is prioritized. While recently an increasing amount of governing is done in the name of security, critical scholarship suggests maintaining security is a dynamic, problematic and fluid process often producing unintended effects (Shearing and Woods, 2003; Zedner, 2009; Valverde, 2011a).32 In other words, security is not a “thing” but an ongoing process (Ranasinghe, 2012; Valverde, 2011a). Conceptually speaking, Valverde (2014) suggests scholarly inquiries into the governing of security are more fruitful when researchers avoid studying security as a static concept but rather as a process that involves a wide array of activities and practices. Valverde (2011a; 2014) has made several Methodological

32 As Valverde (2010) suggests, the attempt to govern security often generates unintended consequences or side-effects and in some cases even creates new risks: the taxi industry in Hamilton is a good example. In an attempt to increase compliance, a recent amendment to Hamilton’s taxi by-law requires all drivers to carry a certificate indicating the camera in their vehicle is operational. A short time after the amendment was passed, City officials learned they had inadvertently created a new black market for forged/modified certificates.
recommendations for those interested in studying the governing of security many of which help conceptualize the current research.

As a starting point, empirical studies seeking to explore security need to inquire into the logic of governance projects. The term logic is used to describe the rationale, objectives, discourse and ethical justifications of governance (Valverde, 2011a). Security projects commonly contain multiple or even overlapping logics and can be interpreted differently by people involved in the governing process. Second, those who study security projects must pay close attention to the techniques of governing. The focus on techniques is closely related to the rationales of those who shape governance projects (Valverde, 2011a). Lastly, researchers must pay close attention to the scope or scale of governance projects. As Valverde (2014, p. 385) notes, scale is particularly important in urban research as many security projects occur on the “microlocal scale” and are shaped by highly localized factors (e.g., urban rejuvenation). In order to study the scale of security projects, empirical studies need to examine the temporal and spatial dimensions of governance as well as its jurisdiction (Valverde, 2014). Often neglected by legal geographers and criminologists, in-depth inquiries into the temporal scale of security projects allows researchers to gain a more nuanced understanding of the governance process (Valverde, 2011a; 2014). For example, loud music or excessive noise that may be addressed through a verbal warning during daytime hours is more likely to result in a ticket in the late hours of the night. Spatial scale is also relevant to the study of municipal law. As already established, the divergent nature of Hamilton’s zoning laws mean an acceptable use (e.g., having a secondary rental suite) on one property may be inappropriate on another property located only metres away. Likewise, Hamilton’s proactive enforcement blitzes have a unique spatial dimension. For example, a significant portion of proactive enforcement focuses on several distinct areas in
Hamilton’s downtown wards. Jurisdiction is equally important within the study of municipal law. As Valverde (2014) suggests, governing security commonly involves different organizations or governing bodies whose jurisdictions sometimes overlap. As will be discussed below, these specific Methodological considerations helped shape this dissertation’s research questions and informed the specific methods that were deployed to study municipal law enforcement as a project of security.33

4.2: Research Questions and Study Design

The purpose of this section is to provide a brief overview of the research questions followed by a general discussion of this study’s design and how ethnographic observation, informal semi-structured interviews and secondary statistics were used to address the research questions. In doing so, it will also discuss how the methods deployed in this study aligned with the framework recommended by Valverde (2011a; 2014). A more in depth discussion of field work procedures, interview techniques and data analysis will be provided in the next section of this chapter.

This study set out to explore how municipal by-laws and by-law enforcement regulate the conduct of the various social groups who inhabit Hamilton’s downtown core. This study also set out to better understand how municipal law enforcement is prioritized and to what extent, if any, municipal laws and their enforcement contributed to broader City objectives, specifically economic growth and the rejuvenation of Hamilton’s downtown. Given the socio-economic

33 More so than others, Valverde (2010; 2014) has provided a valuable set of questions that help guide the study of security projects. However, the governing security literature does share a close relationship with Foucault’s governmentality perspective. As Scheurich and McKenzie (2005) suggest, the general methodological framework of Foucault’s work could be considered part historical, archaeological and genealogical. By focusing on the art of government (see Foucault, 1991), many Foucauldian scholars have sought to focus on the strategies, programs and technologies of the governance process (Rose et al., 2006).
diversity of Hamilton and that past literature has highlighted how law can be used to regulate impoverished or other perceived “disorderly” groups (see Wacquant, 2009; Harcourt, 2009), this study also sought to explore the extent to which residents of Hamilton’s downtown are affected by the enforcement of municipal law. While these questions provided a basis for inquiry, this study remained exploratory. In order to address these questions, data were gathered in two stages.

Data were collected using multiple qualitative methods. Building on past research on policing (Skolnick 1966; Black and Reiss, 1970; Manning 1980; Ericson 1981; Herbert 1989; Sanders and Hannem, 2012) and municipal law enforcement (Valverde, 2012) a significant portion of this study’s data were gathered though ride-alongs with municipal law officers. Starting April 2014, and ending in early September 2014, I spent over 600 hours with 18 different municipal law officers as they carried out their daily task of enforcing Hamilton’s by-laws. The officers were responsible for enforcing a range of municipal laws that regulate issues of nuisance, licensing, property standards, illegal dumping and zoning.

As documented within the anthropological, sociological and criminological literature, ethnographic methods allow researchers to study the social worlds of others as insiders (Goffman, 1959; Simmons, 2007), offering an insider account of the complexity of everyday life (Denzin, 1971; Hammersley and Atkinson, 1983; Alder and Adler, 1987; LeCompte and Schensual, 2010). As Reiner and Newburn (2008, p. 354) suggest, ethnographic methods allow researchers access to the “low visibility” of policing subculture and street-level enforcement practices: this is important because the power given to the police often makes their interpretation of incidents and events the official account and can excluding the viewpoints of those “being policed”. In this regard, participant observation offers a distinct advantage as “all other methods
rely on some sort of account offered by the police themselves, the veracity of which is often precisely the question being studied” (Reiner and Newburn, 2008 p. 354).

In relationship to Valverde’s (2011a; 2014) Methodological suggestions, ethnographic observations were instrumental in studying the techniques officers used as they investigated municipal law related complaints and proactively enforced local laws throughout the city. This study’s ethnographic approach also provided valuable insight into the logic behind enforcement tactics; in particular, how the logic that influences enforcement practices amongst officers was often different from the logic outlined in City documents and/or expressed by higher-ranking City officials.

During this initial stage of data collection, I also attended over a dozen public and closed door meetings including Committee of Adjustment hearings, planning meetings, and several specialized task force discussions which focused on safety and security in Hamilton’s downtown and specific development related projects (e.g., Hamilton’s waterfront development). These meetings were useful for several reasons. First, public and private meetings provided a firsthand account of the logic informing some of Hamilton’s broader planning objectives in relation to downtown development and safety. Secondly, much like what I experienced during my fieldwork, public meetings also provided further insight into the diverse types of municipal law related complaints the City receives.

The second stage of data collection began in October 2014 and ended in September 2015. In an attempt to gain a better understanding of how by-law enforcement is prioritized and the extent to which economic, spatial and cultural considerations factor into enforcement practices, 20 semi-structured interviews were conducted with municipal law officials, City staff and planners. This included 10 interviews with municipal law supervisors, managers and clerks and
10 interviews with City planners and officials working in various departments including Economic Development, Planning and Housing. In order to distinguish between these two groups in later chapters, municipal law supervisors, managers and clerks are referred to as “municipal law officials” and City planners and officials working in various departments including Economic Development, Planning and Housing are referred to as “City planning officials”. As a method of inquiry, qualitative interviewing grants access to perspectives not always accessible through other research methods such as self-report surveys (Rubin and Rubin, 2011). As Weiss (1995) suggests, qualitative interviewing is a useful technique when attempting to establish how organizations set goals and priorities. Building on my experiences in the field, open-ended questions attempted to establish how Hamilton’s economic growth has influenced the enforcement of municipal law, the root causes of neighbourly and business-related disputes, and the extent to which the City’s planning initiatives include Hamilton’s marginalized populations. Interviews also offered insight into the broader governance process and revealed how the logic that guides city-wide urban renewal varied, not only between City officials (planners and municipal law officials) and frontline enforcement strategies, but also between City officials. More so than other methods of data collection, (e.g., self-report surveys) open-ended semi-structured interviews offered opportunities to probe and ask follow-up questions in cases where interviewees offered unclear responses. Given the complexity of some municipal law related issues, semi-structured interviews also allowed participants to provide in depth responses.

While a majority of this dissertation’s data were collected using ethnographic observation and informal semi-structured interviews, the analysis of secondary statistics and content found in

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34 How planners and municipal law officials were recruited will be discussed below.
Hamilton’s planning documents also played an important role. While some statistical data were accessed electronically through Statistics Canada’s website, a majority of the secondary statistics analyzed were accessed through reports and planning material found on the City of Hamilton’s website.35

The use of secondary statistics helped situate the current study within a broader socio-economic context. In particular, Statistics Canada data and the quantitative data found in several City of Hamilton reports helped identify patterns of growth within the downtown, the distribution of poverty and patterns of gentrification. In relation to the governing security literature, statistical data found in several City reports was also helpful in establishing the scope of municipal law enforcement in Hamilton. For example, data from Project Compliance also demonstrates what has been described above as the unintended effects of governing security. As discussed in the opening Chapter, the original goal of Project Compliance was to assess the need to implement a licensing protocol for rental properties. However, this same data suggests only half of the properties visited during the proactive blitzes were deemed rental units. Thus, over half of the Compliance Orders that were issued during the pilot project were given to owners of rental units. The content found in several strategic planning and policy documents also worked as a valuable source of data in this study.

As Hsieh and Shannon (2005) suggest, qualitative content analysis allows researchers to subjectively identify patterns and themes within text-based data. Content analysis is a useful tool within urban research as a thorough analysis of city planning documents and zoning codes often

35 Several requests were made to by-law officials for more in-depth and historical data on municipal law enforcement in Hamilton. Each time these requests were denied on the grounds the City “did not have the resources” to provide such data. In order to maintain the trust and rapport I had established with municipal law officials and City staff, I made the decision not to file a freedom of information request.
reveals “symbolic meanings” and objectives (Norton 2008, p. 433). As Norton (2008) explains, these objectives only become evident when the reader considers that planning documents are written to appease specific audiences including local officials, community members and judges who may reside over appeals.

As will be discussed in the next Chapter, Hamilton’s strategic policy and planning documents provide context on the City’s long-term economic goals, strategic planning objectives and policy initiatives that relate to urban renewal (e.g., Hamilton’s Cultural Policy). A review of several City documents prior to the fieldwork component of this study also shaped several of the research questions. For example, although my time in the field proved otherwise, this study’s focus on proactive enforcement was influenced by the objectives found in several strategic plans. This Chapter will now turn to a more in depth review of the specific techniques used to collect this dissertation’s data.

4.3: Observing the Law on the Streets: Research Techniques

The purpose of this section is to review the specific research techniques employed during my study of municipal law in Hamilton. The section will be divided into several parts. First, I will discuss how I gained access to the field, the process of developing trust and how I built rapport. Next, I will review how data were collected in the field. Finally, a detailed review of the interview process will be provided including how participants were recruited and how each interview was structured. This section will conclude by discussing how data were analyzed and validated.
Gaining Access, Developing Trust and Building Rapport

As past qualitative research has demonstrated, gaining access to the field has proven to be a major obstacle for many ethnographers (Hammersley and Atkinson, 1983), especially when attempting to gain access to powerful/elite populations and institutions (Neuman et al., 2004; Morris, 2009). As demonstrated in past studies on policing (see Ericson, 1981; Grimshaw and Jefferson, 1987: Rowe, 2007) and municipal law enforcement (Proudfoot and McCann, 2008), gaining access to policing organizations can be particularly difficult. The difficulty of gaining access to policing organizations has been partially attributed to a shift in the nature of police research itself. As Reiner and Newburn (2008) explain, while early research on policing assumed consensus within society and sought to analyze the police as well-working institutions, in the last several decades research has highlighted inconsistencies in how laws are enforced, often casting police work in a negative light. Concerned for how they could be represented when research findings are made public and the potential impact this could have on their jobs, frontline officers have become increasingly hesitant to partake in research (Reiner and Newburn, 2008).

Unlike Proudfoot and McCann’s (2008) experience with the City of Vancouver (their request to complete ride-alongs with municipal law enforcement officers was denied), the early stages of gaining access in the City of Hamilton was met with little resistance. Initial contact was made with Hamilton’s Municipal law and Parking Department in late 2013. After several telephone discussions and two one-hour meetings with municipal law’s community liaison, it was established that observations would begin in January 2014 and conclude in June 2014. Despite having received a letter of support from Hamilton’s Municipal Law and Parking Department endorsing my research, just prior to entering the field I was notified by Hamilton’s legal department that I was required to sign a “research agreement”. I later found out the
originally proposed research agreement was actually the confidentiality agreement that all City of Hamilton summer students have to sign before beginning seasonal employment. This being the case, a lengthy negotiation between the City of Hamilton’s legal department and the University of Guelph’s Research Ethics Board and Office of Research ensued. This research agreement influenced this study in several ways.

My original plan was to collect more detailed information on the members of the public who I interacted with while accompanying municipal law officers. Due to the conditions outlined in the research agreement, I was not able to collect data on the ethnicity or specific age of any members of the public I encountered during my observations. Because of the hard work and negotiations of the University of Guelph’s Research Ethics Board and Office of Research, I was able to record the details and nature of each municipal law investigation, general geographical area of the City where interactions took place and the specific actions taken by the officers. The agreement also stipulated I would not record any information an officer disclosed to me in “confidence”. While in the field, I made a considerable effort to ensure this stipulation was met by openly communicating what I was, and was not, observing and documenting during ride-alongs. In cases where information was disclosed that fell outside of what was observed first hand (e.g., the details of an investigation that had taken place prior to entering the field), I would routinely ask officers if this was information I could “use” in my study. My attempt to uphold this part of the research agreement led one officer to pre-emptively start some discussions with “here is something that might be useful to know”. In addition to limiting the data I could record in the field, the research agreement negotiation process also delayed my entrance into the field by several months. In the end, this delay was beneficial to the overall quality of my project as I was able to observe the enforcement of several by-laws not addressed in the winter months.
(e.g., property standards). Importantly, the interview component of this study took place after the research agreement with the City of Hamilton had expired. After discussing the interview component of this study with City officials, including the ethical protocol established by the tri-council and the University of Guelph, a consensus was reached that no further agreement was required.

As Rowe (2007, p. 38) suggests, formal agreements between researchers and policing organizations seldom guarantee participation or “meaningful cooperation” from frontline officers. Much like Rowe’s (2007) experience with British policing agencies, the establishment of a research agreement with the City of Hamilton did little to build trust with municipal law enforcement officers or assist in the recruitment process. With this in mind, the officers who participated in this study were recruited using several different techniques. To begin, a recruitment email was distributed by Hamilton’s municipal law community liaison to the roughly 60 officers working in the downtown office. Although my original plan was to distribute the recruitment email through my University of Guelph account, the City’s community liaison was insistent that their non-management level role made them “equals” with the officers. As a result of the recruitment email, four municipal officers expressed interest in participating in my research. In this regard, contacting officers by email was only a moderately successful method of recruitment. A majority of the officers who participated in this study were recruited through face-to-face interactions that took place in the municipal law office. Organized by cubicles, the layout of the municipal law office meant on any given day I would walk past the desks of dozens of officers. On numerous occasions simple introductions snowballed into lengthy conversations

36 The University of Guelph’s research ethics board was concerned that managers and supervisors should not know what officers chose to participate in my study. Meeting this threshold proved challenging as many frontline officers would routinely discuss municipal law investigation with supervisors and managers in my presence.
and officers expressing interest in my study. The four officers who initially volunteered to participate in this project played a very important role in this process by introducing me to their co-workers and vouching that my presence did not interrupt their daily routines.

Similar to Rowe’s (2007) experiences with police officers in Britain, building and maintaining trust amongst municipal law officers was an ongoing process. Establishing a basic level of trust with officers who did not participate in my study but who I regularly crossed paths with in the office was particularly challenging. For example, on one occasion an officer who chose not to participate in my study stopped me to inquire as to why I was given an access card that allowed me daytime access to the building. On another occasion, a different officer who participated in the study explained how at first he was concerned I might be an “undercover” City employee planted by management to ensure that officers were doing their jobs correctly. The officer went on to explain how he and some of his fellow officers “felt like they were under the radar” because of the controversies plaguing the City of Hamilton in recent years.37 While it only occurred once during my fieldwork, my potential ties to local media were also questioned. The brief interrogation into my relationship with the Hamilton Spectator, the City’s daily newspaper, stemmed from a seemingly harmless conversation I had with an officer during a dinner break in a downtown fast food restaurant. During the previous shift this same officer had spent considerable time discussing the investigation of an “unlicensed establishment” in the downtown. One week later, when I inquired into how the investigation was progressing, the officer smugly remarked that “someone…and we don’t know who that someone might

37 A number of highly publicized controversies took place in the time leading up to, and during my research. For example, 29 outside workers were fired in 2012 for time-theft and breach of trust (Bascaramurty, 2013). In 2013, a City employee was fired after he was caught having sex with a prostitute in a City vehicle (Dreschel 2013). Just prior to entering the field, the Hamilton Spectator published a series of articles accusing the City’s garbage collectors of only working a portion of their ten hour shifts (Buist, 2014).
be...leaked the details of my investigation to the media”. Unlike the previous shift with this officer, for the rest of the evening shift we chatted very little about past/ongoing investigations.

Building rapport with research participants is an important element of ethnographic research. More so than simple trust, genuine rapport with insiders requires a certain degree of acceptance (Hunt, 1984). Developing rapport requires researchers take on the role of “professional strangers”, balancing out relationships that often feel like friendships with the reality of a type of detached involvement (Agar, 1996). In other words, developing a friendship-like relationship with research participants is instrumental in building rapport, yet simultaneously problematic in terms of maintaining an objective viewpoint (Glesne, 1989). As Hammersley and Atkinson (1983) suggest, developing trust and rapport often requires ethnographers to engage in what Goffman (1959) describes as impression management. Managing my impression was an important element in establishing rapport with the officers I accompanied. Like Rowe (2007), my age, gender and ethnicity allowed me to develop a strong rapport with several officers who were also white males in their late 20’s and 30’s. While accompanying these younger officers, the discussions that took place between calls, on route to investigations and in the municipal law office often involved our shared interests in music, sports and popular culture. With other officers I felt it necessary to present myself in a slightly different light, revealing less about the details of my personal life. At least to a certain extent, a type of dialectical relationship occurred as my own impression management influenced, and was influenced by, the type of information officers shared during our time together.

The length of time I spent in the field was not only helpful in developing rapport with officers but offered a unique glimpse into the challenges associated with enforcing municipal law in the City of Hamilton. As result of the willingness of the officers to grant me access to their
daily lives, many of the in-depth conversations about the factors influencing their enforcement practices and the difficulties associated with maintaining what was described as “neighbourhood civility” took place during coffee breaks with co-workers and lunches as well as dinner stops throughout the city. While my position as a researcher began as an “Outsider-Outsider”, over time I entered into the role of what Reiner and Newburn (2008 p. 356) call an “Inside-Outsider” someone who has insider knowledge and is accepted by officers yet is not actually an officer. Aware of the dangers associated with “going native” (see Adler and Adler 1987 p. 67) there were several times during my fieldwork where a conscious effort was made to reinforce my position as a researcher. With few exceptions, I declined offers to attend events outside the daily routines of the officers I accompanied. This reluctance was met with resistance on several occasions by different officers and supervisors. On one occasion my hesitation to sign a going away card was met with protest by the officer distributing the card who suggested “I was one of them” and that the administrative worker “would be disappointed if they did not see my name”. While my signature was by no means a declaration I had gone “native”, the officer’s remark that “I was one of them” reinforced the importance of being committed to being as objective as possible.

**In the Field: Informed Consent, Collecting Data and Looking the Part**

While the arrangement of the municipal law office was helpful in the recruitment process, it proved to be a less than ideal place to discuss informed consent to ensure officers were aware of the measures taken to ensure their confidentiality throughout data collection and dissemination of results. For this reason, informed consent was discussed with each officer inside municipal law vehicles before I engaged in my first ride-along. In each case, I carefully explained the details of the consent form, answered any questions and provided each officer with a copy of the consent form in exchange for a copy they had signed.
Over the course of six months I spent over 600 hours accompanying 18 different municipal law officers who are were responsible for enforcing laws that regulate property standards, licensing, zoning and nuisance. Depending on the officer’s schedule, I would typically arrive at the municipal law offices between 8 and 9 AM. During the first hour of the day, most officers would typically review their phone messages, respond to emails and check a computer software program called AMANDA, a database for all municipal law investigations. Organized by property addresses, once logged into the AMANDA system, officers could review their ongoing investigations, check to see if a clerk had assigned new cases and close any past files. Depending on their area of prioritization (i.e., property standards or licensing), officers would have anywhere between 45 to 250 “open investigations” during any given time period. Using the AMANDA system, most officers would plan their day around the geographical locations of their investigations. While some officers would return to the office during the day, many spent a majority of their 8 hour shift on the road. During evening shifts officers would follow a similar protocol, arriving at the office around 6 PM and typically do several hours of compliance checks before logging in with the Hamilton Police to be dispatched to noise calls. With the exception of a handful of shifts, a majority of evening shifts ended around 1 AM. Unlike the daytime shifts, during the evening shifts officers worked in pairs and usually chose to drive in separate vehicles, allowing officers to follow-up on their own open investigations before logging on with the Hamilton police.

38 For some officers, depending on their dedicated area of specialization (i.e. Environmental issues pertaining to long grass and debris) investigation could be closed relatively quickly. For example, in some cases “compliance” could be achieved by simply cleaning up some garbage in a driveway or removing weeds from a front lawn. These officers tended to have fewer open investigations but were more likely to receive new cases on a regular basis. On the other hand, an officer who investigated abandoned buildings would have more open investigations but would receive fewer new files.
While accompanying officers in the field, I usually sat in the backseat on the passenger side. Each municipal law vehicle was equipped with a passenger seat stand allowing officers to travel with access to the AMANDA system. Several officers would remove the laptop stand on days I accompanied them so I could ride in the front seat. One officer noted how he preferred I sit in the front seat so he did not have to spend the day looking into the rear-view mirror and chatting like he was “driving Miss Daisy”. Similar to the approach outlined by Mastrofski and Park (1990 p. 476), while in the field I tried to “minimize intrusions” by avoiding any form of direct participation in active investigations. With that being said, the discussions that took place during ride-alongs about urban rejuvenation, enforcement challenges and City politics occurred rather organically and were most often initiated by the officers themselves. As discussed in the ethnographic literature, these types of conversations or field interviews are commonly informal and can span extended periods of time.

One particularly challenging aspect of doing ethnography is documenting the events that unfold in the field (see Hammersley and Atkinson, 1983; Jorgensen, 1989; Mastrofski and Park, 1990). While in the field, I carried a messenger bag containing a small notebook, several pens, protein bars and a water bottle. Similar to the approach deployed by Herbert (1998) in his studying of the Los Angeles Police, during my time in the field I made quick and concise notes documenting as many details as a situation would allow. With few exceptions, most field notes were made inside the municipal law enforcement vehicle once our investigation was complete. Immediately following each shift spent in the field, I would rewrite my field notes in order to elaborate on what I had observed and document any noteworthy discussions that occurred during the shift. Most often this took place on the fourth floor of the downtown Hamilton library located next to the municipal law office. In addition to being relatively quiet, several tables
offered a bird’s eye view of the City including Hamilton’s expansive waterfront, the municipal law offices and a homeless shelter located across the street from the library.  

While in the field, my location in the vehicle influenced the amount of detail I recorded in my notebook. For example, when in the backseat I found myself making more in-depth field notes about the details of each investigation. While at first I was hesitant to make any extensive notes in front of the officers who participated in my study, over the course of my time in the field I began to feel more comfortable having my notebook out and jotting notes in the presence of officers. In fact, the longer I spent in the field the more common it was for officers to discuss what had occurred during an investigation and the information was worth writing down. One officer even discussed how he did not mind when I wrote in my notebook as it allowed him time to record his own notes.

Researchers often take on different positions while in the field (see Adler and Adler 1987). According to Emerson and Pollner:

The slash in participant/observation symbolizes the apportionment of a fieldworker’s activities between the two modes of presence in the field: participation and observation…Ethnographers precepts and perspectives encourage the researcher to position the slash at different points on the continuum – some towards the observation pole, others towards the participatory pole (2003, p. 29).

During my time in the field, a conscious effort was made to establish a position where I was trusted and accepted by officers while maintaining the distance required to remain as objective as possible. My lack of authority to enforce municipal law ensured a degree of detachment and prevented me from engaging in “complete membership” (Adler and Alder, 1987 p. 67). With this in mind, my place on the continuum of participant/observer fluctuated during my time in the field.

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39 Further detail on these more detailed notes will be provided in the data analysis section of this chapter.
Prior to entering the field, I engaged in several discussions with municipal officials about the most appropriate way to represent myself when dealing with the public. During these initial discussions, one supervisor proposed that I be issued an “official” uniform including City issued boots, utility belt, blue cargo pants and the matching shirt. In the end it was decided a slightly less official uniform would more appropriate. Stressing the importance that my attire closely matched the official uniform, I was instructed to wear dark blue pants, a matching blue-polo shirt and black steel-toe boots. During a majority of my shifts I was instructed to wear a City issued municipal law jacket with official “flashes” (i.e. crests) on each shoulder. This made me almost indistinguishable from the officers themselves. To draw on the work of Goffman (1959), because of my appearance in the field, during my interactions with the public I was routinely treated with the same level or respect, or often disrespect as the officers I accompanied. In this regard, it could be said that my likeness to the officers (i.e., my front stage appearance) meant I was treated the same as the officers when interacting with members of the public. In cases where I was not introduced as a “researcher”, members of the public would routinely ask questions regarding the municipal laws that were being enforced. When this occurred, I would kindly direct their questions to the officer I was accompanying.

During my time in the field my likeness to the officers I accompanied was unproblematic. However, there were cases, much like the events described in this Chapter’s opening narrative, where “looking the part” subjected me to the same criticism, frustration and outrage directed at municipal law enforcement officers. The actions of the officers themselves, on occasion, also pulled me towards the pole of active participant. For example, on one occasion while breaking up a large backyard house party, several intoxicated partygoers began criticizing the responding officers for ruining what they called a “charity fundraiser”. Halfway through a discussion of
how donating a portion of the proceeds from their backyard keg party did not make them exempt from the noise by-law, one of the officers, sensing the crowd in the driveway was getting unruly, instructed a group of intoxicated bystanders to go and stand by “the officer at the end of the driveway”. Pointing in my direction, the officer’s instructions led a crowd of partygoers to gather around me at the end of the driveway. As the officers sorted out who lived at the home, I was left talking with approximately a dozen intoxicated millennials whose most pressing concern was where they should “move” the party. On a different occasion, when a member of the public was having difficulty comprehending the City’s green space restrictions, the officer I was accompanying looked at me and asked “if I could clarify what he was attempting to convey”. Caught off guard by the request, I suggested perhaps the homeowner review the by-law online and then contact the officer if they had further questions. Walking back to the vehicle the officer noted how he thought “we” handled the call well. Although a detailed discussion of the methodological implications and challenges associated with finding a middle ground in the participant/observer dichotomy cannot be provided in the space given, these examples do serve as a noteworthy reminder that no matter how committed a researcher is to securing a balance between participation and observation, the events that unfold during fieldwork influence where one falls on the continuum. This Chapter will now provide a more detailed description of the second phase of data collection.

**Semi-Structured Interviews**

During the second phase of data collection, I completed a total of 20 semi-structured interviews. The timing of these interviews was strategic occurring after the observational component of my research was complete. Completing my interviews after my observations was helpful for two reasons. First, my time in the field influenced the content of my interview
questions. For example, several interview questions relating to zoning and permitted land-use where influenced by the disputes I observed while in the field. Secondly, my time in the field allowed me to use the jargon and terms of reference I would not have otherwise learned had I not been immersed within the culture of municipal law enforcement. Based on this dissertation’s original research questions and data gathered from the field, interview questions were arranged around several themes including the factors influencing Hamilton’s economic upturn, how gentrification is changing the composition of the downtown and the extent to which, if any, municipal law enforcement contributes to urban renewal and improves safety/security in the downtown. While a portion of the open-ended questions remained identical whether I was interviewing municipal law officials or City planners each of these groups were asked a series of sub-questions relating to their specific roles/areas of interest (see Appendix A). For example, sub-questions during the interviews with municipal law officials focused on how by-law enforcement is prioritized, what challenges arise during investigations and why local residents and businesses complain about municipal law-related issues. When interviewing City planners these sub-questions focused more on Hamilton’s strategic planning and how the enforcement of municipal law was integrated into broader City objectives.

Interview participants were recruited using several different methods. In order to recruit municipal law managers, supervisors and clerks an email was distributed outlining the details of my project including the general themes of the interview. Given the amount of contact I had with municipal law officials during my time in the field, several officials had agreed to partake in my study prior to the email distribution. Municipal law officials were also influential in identifying potential interviewees working in the City’s Planning, Economic Developing and Housing Departments. Like municipal law officials, potential participants working in planning,
economic development and housing were recruited through email. While my original recruitment email was sent to roughly half a dozen potential participants, my interview sample snowballed as time progressed. For example, it was not uncommon for interviews to end with officials recommending the names of colleagues who might also be interested in participating in my study. With the exception of only several cases, most City officials who I contacted agreed to participate in my study. Rapport with interview participants was developed as follows.

Much like participant observation, in order to foster meaningful dialogue between researcher and participant, rapport must be present (Hathaway and Atkinson, 2003). Because of my previous interaction with municipal law officials, I entered several interviews having already established a degree of rapport. To a certain extent, the same could be said for several of the City planners whom I had met while attending planning meetings. My time spent in the field also assisted in developing trust with planning officials who I had not met previously. For example, at the beginning of each interview I would briefly discuss the length of time I spent in the field and why their participation was important in establishing a better understanding of the City’s planning initiatives. On several occasions, I also discussed my personal connections to the City including my family ties to the Hamilton area. I found these informal conversations a useful method of establishing trust before a more formal discussion about informed consent and how confidentiality would be maintained.

**Setting and Format of Interviews**

With few exceptions, interviews with municipal law officials and City planners took place inside City of Hamilton office buildings. Like municipal law officials, several City officials had private offices which provided an ideal setting for interviews to take place. In cases
where research participants did not have access to a private office, interviews most commonly took place inside boardrooms or common meeting spaces.

The duration of interviews varied from 30 minutes to 2 hours. A majority of the interviews were roughly one hour in length. Once informed consent was established, interviews were recorded using a Sony ICD-UX533 recorder. Similar to recommendations outlined by Rubin and Rubin (1995), and the specific techniques described by Hathaway and Atkinson (2003), interviews began with straightforward and non-invasive questions and then progressed into more difficult subject matter.

Helpful in establishing a rapport and discussing sensitive topics, the active interview approach (see Hathaway and Atkinson, 2003) was particularly fruitful when interviewing municipal law managers and supervisors. Due in part to my pre-established rapport with municipal law officials, my follow-up questions and probes were met with less hesitation. In other interviews with City planners, probes into more difficult or controversial topics (e.g., the proposed licensing of rental houses) did not always result in detailed elaboration. As Morris (2009) suggests, one of the challenges of interviewing certain “elite” populations is the unequal power balance between the interviewer and respondent. Furthermore, Morris (2009) notes how individuals who hold positions of power (e.g., supervisors, managers, City officials/planners) can take control of the interview agenda and redirect questions away from what the researcher is trying to probe. In some cases, City planners would respond to these more challenging questions by directing the interview to less controversial issues. In others cases, City planners avoided controversial questions by suggesting the issue I had inquired into was “not really an issue their department dealt with”.

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Data Analysis

While remaining inductive in nature, this study was guided by several research questions. These general points of inquiry were established through a detailed analysis of several of Hamilton’s strategic planning documents and reports presented to City Council. Prior to entering the field, planning documents and reports were reviewed in order to identify Hamilton’s long-term development objectives and planning goals. With the assistance of Adobe software, PDF copies of strategic planning documents and City reports were reviewed in order to identify key themes. Although the central focus of this dissertation was always to examine municipal law enforcement in the City of Hamilton, a thorough review of these documents shaped this study in two ways. First, this study’s original focus on Hamilton’s inner City was influenced by how downtown renewal was prioritized in numerous City documents and reports. Secondly, this dissertation’s goal of observing the proactive enforcement of municipal laws was influenced by several reports and council briefings which discussed the importance of actively seeking violations in Hamilton’s downtown wards. While City documents played an important role in shaping this study’s original focus, a significant portion of data was collected through ethnographic observation.

Analysis of Ethnographic Data

For qualitative researchers, data analysis is an ongoing process that often takes place concurrently with data collection (Neuman et al., 2004). This is particularly true in ethnographic research where the construction of themes occur in what Jorgensen, (1989, p. 107) calls the “analytic cycle”. For Jorgensen the analytic cycle involves:

A breaking up, separating, or disassembling of research materials into pieces, parts, elements or units…with facts broken down into manageable pieces, the researcher sorts
and sifts them, searching for types, classes, sequences, processes, patterns or wholes…The aim of the process is to assemble or reconstruct the data in a meaningful or comprehensible fashion…In making sense of the data, you are engaging in theorizing – the construction of meaningful patterns and organizations of facts (1989, p. 107).

As Hammersley and Atkinson (1983 p. 175) suggest, ethnographic inquiry takes on a type of “funnel structure” as researchers enter the field with several general questions/points of investigation that, slowly over time, become refined, modified or even abandoned as the researcher makes sense of the phenomenon they sought to observe.

As described above, after each fieldwork shift I would spend between one and two hours reviewing my field notes and elaborating on the interactions, investigations and discussions that occurred during the shift. In order to keep the detailed summaries of my field notes organized, I developed a template in Microsoft Word which I used throughout my time in the field. The template included a section to document the general nature of each of the investigations and whether enforcement was being carried out reactively or proactively. The template also included a section for general notes/emerging themes. The final section of the template contained the research questions that guided my study.40

As Hammersley and Atkinson (1983) note, during the early stages of ethnographic research, observers often spend considerable time describing and defining social events. Over time as familiarity with the research setting increases, ethnographers engage in a process of progressive focusing where detailed descriptions evolve into the establishment of patterns and themes (Hammersley and Atkinson, 1983). Similar to what these authors have described, during the initial few weeks, my field notes were extensive; however, as I became fully immersed in the

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40 I also used this template when attending planning meetings, slightly modifying the first section in order to document the details of each issue discussed.
culture of municipal law enforcement and gained familiarity with the terms of reference, my notes became more concise. During the early stages of observations, I spent considerable time documenting the general nature of each investigation, whether the investigation was the result of proactive or reactive enforcement and the type of action taken by the officer. Using the template described above, the initial stage of my data analysis involved labelling the defining characteristics of each investigation. For example, labels were created that identified when warnings or Compliance Orders were issued. In addition, labels also helped identify cases where proactive versus reactive enforcement techniques were utilized. General labels were also applied to observational notes indicating the general area of the City in which investigations took place. After roughly a dozen shifts in the field, I began to examine my observational data in order to establish emerging patterns and themes.

In order to identify emerging themes, I compared and contrasted the details from each investigation. As Jorgensen (1989) suggests, the process of analytical comparison is useful as identifying similarities and differences in data helps researchers establish major themes and patterns. Influenced by Valverde’s (2011a) questions of security, field notes were also reviewed in order to identify the logic, techniques and scale of enforcement practices. One of the more discernible patterns which quickly emerged related to the logic which informed the street-level enforcement of municipal law. Contrary to City documents, very little municipal law enforcement related to Hamilton’s broader development agenda. Instead, the logic that guided a significant portion of enforcement related to maintaining civility and restoring relationships within neighbourhoods. Comparing and contrasting the techniques of enforcement also rendered several different patterns. For example, and perhaps not surprisingly, there was some variation in enforcement practices amongst officers. As will be discussed in the following Chapter,
examining enforcement practices in relation to the scope of governance projects was also helpful in the data analysis process.

**Analysing Interview Data**

After each interview, the recorded audio was transcribed verbatim into a Microsoft Word document. Transcriptions were then printed in order to provide hardcopies for the analysis process. Once transcribed, the content of each interview was reviewed line by line and supplemental notes were added. As Burnard (1991) suggests, adding supplemental memos to interview transcriptions help researchers note emerging themes and their early connections to relevant literature and theory. Once interviews were complete, I engaged in a form of open coding. While themes usually appear at a low level of abstraction at this stage, open coding allows researchers to establish patterns within their data (Neuman et al., 2004). During this stage of analysis, themes often emerge out of the data itself and from the researchers prior theoretical understanding of the topic being studied (Ryan and Bernard, 2003). Using a “constant comparison method”, I attempted to identify repetitions, reoccurring topics as well as differences within interview content (Glaser and Strauss, 1967 p. 101). A comparative approach proved helpful given the different positions, roles and responsibilities that interview subjects held. While numerous new codes emerged during open coding, some were influenced by the themes that emerged during the observational component of my study.

Once initial themes were established I engaged in axial coding to add further depth to my analysis. Axial coding requires a researcher to “ask about causes and consequences, conditions and interactions, strategies and processes, and looks for categories or concepts that cluster together” (Neuman et al., 2004 p. 458). During this stage of analysis, researchers are required to
examine the relationship between themes established earlier in the research process (Neuman et al., 2004; Backman and Kyngas, 1999). One of the first categories that emerged from axial coding related to Hamilton’s economic upturn. However, as a result of multiple iterations of the themes established during open coding, this category was reframed in order to account for not only economic upturn but also its effect on the downtown. With this in mind, one of the major themes that emerged from this process was how economic upturn/gentrification has affected residents in the downtown core. Several of the themes which emerged in early analysis were also grouped together into the category of diversity. Through the iterative process, this category evolved into the more encompassing category characterized by the idea that Hamilton is a City divided along numerous social and economic lines. The last significant theme that emerged from the analysis of interview data related to the extent to which municipal law contributes to Hamilton’s broader economic agenda. Through careful analysis, an attempt was made to make categories as mutually exclusive as possible.

In order to synthesize and further analyze the data drawn from Hamilton’s strategic planning documents with observational and interview material, interview data and observational notes were uploaded into qualitative analysis software NVIVO 9, manufactured by QSR International. In order to identify patterns, observational notes and interview transcriptions were reviewed thematically and labeled using NVIVO’s node feature. While the use of software programs still require researchers to actively engage in the coding and analysis process, programs like NVIVO can be greatly beneficial when working with large qualitative data sets (Hutchison et al., 2010).
Data Validation

Although a detailed discussion of the debates surrounding scientific objectivity is beyond the scope of this Chapter, it is worth briefly reviewing how this study attempted to ensure data quality. As Goodwin and Horowitz (2002, p. 33) suggest, some positivist social scientists have labelled qualitative sociology as “methodologically and empirically ‘soft’ and highly subjective” (Goodwin and Horowitz, 2002 p. 33). Furthermore, critics have accused those who engage in participant observation as lacking the “critical distance from the groups or institutions in which they insert themselves” thereby fractures the threshold of scientific-objectivity (Goodwin and Horowitz, 2002 p. 36). At the same time, qualitative research itself has become “the site of philosophical and methodological revolt against positivism” (Foley and Valenzuela, 2005 p. 218). As part of this critique, critical scholarship has questioned whether objectivity is achievable or even desirable within qualitative research (Angrosino, 2005). As Angrosino (2005 p. 730) explains, “earlier criticism of fieldworkers might have been directed at particular researchers, with the question being whether they had lived up to the expected standards of objective scholarship…In the postmodernist milieu, in contrast, the criticism is directed at the standards themselves”.

Like data collection and analysis, data validation took place throughout the course of the research. On several occasions, while immersed in the field, I engaged in “member validation” (see Neuman et al., 2004). For example, general themes and enforcement patterns were discussed with the officers I accompanied. The duration of time I spent in the field also contributed to the validation process. Not entirely removed from the debates surrounding scientific objectivity, qualitative research on policing that has relied on participate observation has been criticized for lacking validity because of issues of “reactivity”. The reactivity criticism
suggests law enforcement officers will react to the presence of a researcher by altering their daily
routine to accommodate for what the researcher “wants to see” or to disguise activities they
would prefer to remain unobserved (Mastroski and Park, 1990; Spano, 2006). In relation to my
fieldwork, I would argue the duration of time I spent in the field (over 600 hours) and the
number of officers I accompanied (18 in total) significantly reduced the chances that officers
were simply showing me what they “thought” I should be observing. The unpredictability,
complexity and challenges of enforcing municipal law in Hamilton is also worth noting in
relation to potential reactivity. For example, whether an investigation is reactive or proactive,
municipal law enforcement officers usually know very little about the specific details of the
complaint until they arrive. The opening narrative provides a noteworthy example as the officer
I was accompanying could not predict the way taxi drivers would react to his presence. This
unpredictability was an ongoing theme throughout my time in the field.

The multiple qualitative methods operationalized in this study also aided in the data
validation process. While the term triangulation has traditionally been used within quantitative
research, Shenton (2003) argues that qualitative studies which use multiple methods to study the
same social phenomenon can also ensure the validity and reliability of their data. In addition to
validating data, the use of multiple qualitative methods when studying a social phenomenon also
helps enrich the quality of data. With this in mind, the use of multiple qualitative methods not
only provided a comprehensive analysis of municipal law enforcement in the City of Hamilton
but in turn also helped in the data validation process. For example, several of the key themes
that emerged during my fieldwork were later confirmed during interviews. In other cases, the
data collected in public meetings on the nature of citizen complaints validated what I observed in
the field. In this regard, the recommendations found within the governing security literature
which help inform this study’s multiple qualitative methods also assisted in the data validation process.

4.4: Conclusion

Influenced by Foucault’s governmentality thesis and the problematic nature of the governance process, this study focused on the logic, techniques and scope of municipal law enforcement in the City of Hamilton. In order to examine the complex processes involved in enforcing municipal law in the City of Hamilton, this study is informed by several research questions. As discussed above, this study sought to explore how municipal by-laws and by-law enforcement regulate the conduct of the various social groups who inhabit the City’s downtown core. In addition, this study also began with the goal of gaining a better understanding of how municipal law enforcement is prioritized and to what extent, if any, municipal laws and their enforcement contributed to broader City objectives, specifically economic growth and the rejuvenation of Hamilton’s downtown. While guided by these questions yet remaining exploratory, this study deployed multiple qualitative methods including the analysis of Hamilton’s strategic planning documents, over 600 hours of participant observation alongside municipal law enforcement officers and 20 semi-structured interviews with municipal law officials and City planning officials. In discussing this Chapter’s methodology, an attempt was made to review and address the specific challenges associated with qualitative research, including the challenges of gaining access, building rapport and maintaining a balance between participation and observer. By briefly reviewing the critiques leveled against qualitative research this Chapter has also discussed how data was analyzed and validated.
Chapter 5.0: Results – Hamilton the Divided City

A Day of Planning

On a morning early in June, I walked briskly through Jackson Square, Hamilton’s downtown shopping centre, while on my way to City Hall. Accompanying me was a municipal law official who was set to table an amendment which would allow food trucks to operate with fewer geographical restrictions throughout the City. As we walked, the municipal law official explained how the growing popularity of Hamilton’s numerous cultural and arts-based festivals had created a “food-truck culture” in the City. The purpose of the amendment was to loosen the existing licensing restrictions in order to allow food trucks to operate on a short-basis at schools, places of worship and industrial properties during fundraisers.

Like most planning meeting I attended, the gallery of City hall chambers were scattered with members of the local community, builders and property managers. One of the first items to be discussed was a proposed zoning amendment to a property located in Ancaster. Located in the heart of one of Hamilton’s most affluent areas, the proposed amendment would allow for an existing residential property to be used as a medical office. Having submitted the new site plans to City officials to review prior to the meeting, the developer gave a short overview of how the new design met all the zoning requirements for proposed new use while casually mentioning how the minor exterior renovations to the existing structure would be consistent with the charm and character of Ancaster. Satisfied that the zoning requirements had been met and that the public had raised no major concerns, the new site plan was approved and the zoning variance was given.
The next item on the agenda was a proposed zoning amendment to a downtown property that would enable a developer to begin phase three of a new condominium development. The developer began his presentation by discussing how successful the first two phases of the build had been and how the proposed amendment would help keep up with demand for condominiums in Hamilton’s downtown. While phase-three had previously been approved by the planning committee in 2009, the developer was now seeking to build a structure that would exceed his original design by seven stories. A staff report had encouraged the planning committee to approve the proposed amendment as it was consistent with the type of high-density development the City wanted in the downtown.

Unlike the previous agenda items, phase-three of the downtown condominium development was met with significant resistance from several community members. Over the course of almost two hours, residents and representatives from neighbourhood groups discussed their concerns with the new development. Several of the delegations accused the developer of misleading the neighbourhood by proposing a much taller structure in the public consultation phase of the project in order to make the currently proposed structure seem like a compromise. While the newly proposed condominium tower would exceed the permitted height for the area, the building would be considerably shorter than what was originally proposed to the community. Other delegations revisited the fact that a previous developer who was unable to secure funding for the project had signed an agreement with a local neighbourhood association promising that no structure would exceed four-stories. Siding with the new developer and the City of Hamilton, the Ontario Municipal Board concluded the agreement was void because it was made with someone who no longer owned the property.
Consistent throughout the delegations, individual property owners and representatives from the local neighbourhood association adamantly opposed the condominium development suggesting the City and its staff had lost touch with what matters in the downtown. Almost all of the delegations argued the condo development would strip the neighbourhood of parking, lead to traffic grid-lock and literally leave them “in the shadows” of another tall building that “robbed their properties of the sunshine”. Several delegations also highlighted the fact that rising property values in the neighbourhood could also displace people who have called the downtown home for some time. One concerned resident suggested despite his long-tenure in the neighbourhood, his very modest income would inevitably lead to displacement if rents and property values continued to climb. Not unlike other planning meetings that I attended, the delegations given that day not only opposed the specific development in question but also the City’s decision to allow the numerous new condominiums now being built throughout the city. One resident even suggested that they feared that their neighbourhood was “becoming just another Toronto”.

Roughly five hours into the planning meeting the committee heard the presentation on the proposed amendment which would allow food trucks to operate with fewer restrictions. Unlike the previous items, there was no opposition from the committee or members of the gallery. After a short discussion amongst the committee it was decided that the amendment would be beneficial to all.

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The events that unfolded during the planning meeting described above highlight two key themes that will be discussed throughout this Chapter. First, Hamilton is a City in transition. Since the recession of 2008, Hamilton has experienced an economic upturn, contributing to a rise
in housing prices, the construction of several high-rise condominiums and renewed investment interest in several downtown neighbourhoods that have traditionally been home to the working class. In some parts of the downtown, storefronts that have long sat empty are now opening as cafes, independently owned boutique style shops and restaurants.

Transitions are also occurring within Hamilton’s employment sector. The decline of steel manufacturing at Hamilton’s two major steel makers, Dofasco and U.S. Steel (formally Stelco) has led to significant job losses. While many downtown neighbourhoods still wear the visible signs of deindustrialization, Hamilton’s existing educational and healthcare institutions, McMaster and Hamilton Health Sciences, have continued to expand in the lower city. Combined with a growing service sector, new employment opportunities have to some extent filled the void left by the decline of heavy industrial manufacturing. Simply put, the City once labelled “Steel-Town” is no longer all about steel.

Despite signs of physical rejuvenation and employment growth in the healthcare and education, Hamilton remains a place home to significant economic, social and political contrasts. These contrasts illuminate the second major theme that will appear throughout this Chapter; that Hamilton is a divided City. For example, despite middle and upper class families moving into the lower city, the downtown has the highest percentage of people living in poverty which, when combined with Hamilton’s long waitlist for Rent-Geared-to-Income housing, has driven many impoverished and working class families into the illegal housing market. Hamilton’s residents are also divided when it comes to the City’s ambitious urban renewal plan. Often recounting the nostalgic feel and sentiment only offered by long-term neighbourhood tenure, many downtown residents quite adamantly oppose the City’s growth oriented planning agenda. As highlighted in the opening narrative, neighbourhood groups and concerned citizens fear higher density will
erode their neighbourhood’s character and displace those who have long called the lower City home. As these concerns suggest, Hamilton’s story is not unlike other cities that have experienced gentrification.

While Hamilton is in the midst of an economic upturn, the rejuvenation of the downtown core is far from complete. With this in mind, the primary goal of this study’s first results Chapter is to establish how Hamilton has generally endorsed a neoliberal economic development model guided by efforts to re-brand itself as a “world-class” City in order to attract outside investment and draw in new businesses and consumers. Based on the content of City documents, recommendations found in consultant’s reports and data from interviews with planners and municipal law officials, this Chapter will also establish the link between municipal law enforcement and the City’s broader economic objectives.

The first section of this Chapter will focus on how Hamilton’s early growth patterns, industrial legacy and corresponding land-use patterns have shaped the physical geography of the City and influenced rejuvenation efforts a century later. The second part of this Chapter will review post-amalgamation Hamilton and highlight the City’s sharp socio-economic contrasts. In order to do so, it will examine several important statistical indicators commonly used to measure poverty and diversity. In relation to the literature discussed in Chapter Two, this section will review the numerous factors contributing to what commenters see as the City’s recent economic upturn. This will be accomplished through a general discussion of gentrification combined with an overview of several growth indicators including average housing prices and estimated value/total number of building permits issued in the downtown Wards. This discussion will be

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41 As discussed in this dissertation’s methods chapter, the title “City planning official” is used to refer to planners from several different departments including Economic Development, Planning and Housing.
supported with data drawn from interviews with City planning officials. The final part of this Chapter will discuss how Hamilton’s urban renewal agenda has been influenced by attempts to attract new creative industries and improve the perceptions of safety in the downtown core. Drawing on interview data and a review of strategic priorities set out in several planning documents, this section will establish how the City plans to foster economic growth in the downtown as the lower City continues to gentrify. This section will also discuss how municipal law enforcement has been incorporated into the City’s economic development and planning agendas. Sharing a close relationship to the themes discussed in City documents and private consultant’s reports, this section will draw on interview data with planners and municipal law officials where the link between municipal law enforcement and improving the aesthetic appeal of the downtown will be reinforced. This Chapter will conclude by situating Hamilton’s rejuvenation efforts within the broader politics of neoliberalism and the literature discussed in Chapters Two and Three.

5.1: Hamilton’s Industrial Roots

“Today Hamilton has a population of not less than 50,000 and it has every appearance of being one of the most prosperous cities in Canada. It is now purely a manufacturing City and but little attention is given to commerce beyond the local demands of the citizens. Look down upon it from the mountaintop and it is one vast field of tall chimneys and smoke from its hundreds of factories hangs over the City like a beautiful web”.


Located along the shores of Lake Ontario, roughly 75 kilometres southwest of Toronto, Hamilton is home to over 500 000 people and has a reputation as a blue-collar industrial City (Williams et al., 2010). For anyone travelling across the Skyway Bridge, the gateway to and
from the Niagara region, the City’s reputation is reinforced by the clear view of Hamilton’s two large steel manufacturers. While still operational, Dofasco and U.S. Steel employ a mere fraction of workers they once did. In many ways, Dofasco and U.S. Steel’s tall smoke stacks and expansive warehouses are landmarks that reflect Hamilton’s past, not its future. At the same time, understanding Hamilton’s “Steel-Town” roots helps frame some of the current changes facing the City as it attempts to reshape its image and rejuvenate its downtown.

Calling itself the “Ambitious City,” in 1881 Hamilton was home to 212 factories that employed over 36,000 workers (Freeman, 2001). As early as the mid-1800s, Hamilton’s rapidly expanding iron and steel industries had created an intense demand for housing resulting in haphazard land-use patterns within the downtown core (Wood, 1987). During this time period Hamilton was already a diverse City comprised of large portions of Irish, English and British immigrants (Freeman, 2001). In part because of Hamilton’s important role in the underground railway, by the late 1940s the City also had a well-established Black community (Freeman, 2001). Coinciding with a steady flow of immigrant labour entering the city, by the late-1800s a clear socio-economic divide existed between higher-skilled workers/shop managers and lower class labourers which, in turn, influenced housing patterns throughout the lower part of the City. By 1880 the higher-skilled upper class migrated to large homes adjacent to the mountain while the impoverished lower class resided in close proximity to factories (Freeman, 2001).

In the decade that preceded the 20th century, several important political decisions solidified Hamilton as one of North America’s primary steel making locations. On the condition that a blast furnace be operational within a year, in 1893 Hamilton offered a group of New York financiers free land, cash incentives and tax breaks if they located their operations in Hamilton (Freeman, 2001). As a result, the Steel Company of Canada which was later renamed Stelco
formed in 1910 and the Dominion Steel Casting Company, now known as Dofasco began production in 1912 (Freeman, 2001).

Hamilton experienced a significant population increase in the early 1900s, growing from just over 50 000 to over 100 000 people in the first 14 years of the twentieth century (Freeman, 2001). Not surprisingly, the City’s housing stock experienced unprecedented growth during this period, tripling between 1900 and 1921 (Weaver, 1982). A lack of zoning restrictions led to patchwork development, placing new residential builds in close proximity to factories (Wood, 1987). Expanding industry contributed to a growing contingency of upper class families in Hamilton and intensified the demand for foreign labour. Many newly arrived foreign labourers were drawn to the ethnic ghettos of the downtown where they lived in rooming houses that were so crowded many resorted to sleeping in shifts (Freeman, 2001). A growing concern amongst Hamilton’s upper class moral reformers led to a series of police raids in the early 1900s which sought to eliminate activities like drinking and gambling amongst the transient young men who frequented Hamilton’s downtown (Weaver, 1995). Concerns about illegal activity within the downtown led to raids on immigrant establishments, crackdowns on bootleggers and even enforcement of anti-spitting by-laws (Weaver, 1995). As Weaver (1995) suggests, a majority of police crackdowns targeted recently arrived European and Chinese immigrants; however, this was not always the case. Originating from the concerns of Hamilton’s Civic Improvement Association, several middle and upper class residents who allegedly failed to remove snow from their sidewalks found themselves in front of a court for failing to uphold their civic responsibilities (Weaver, 1995).

In order to support the military efforts, Hamilton’s steel manufacturing industry expanded during both World Wars. This corresponded with large influxes of workers entering Hamilton.
This included large numbers of immigrants who represented two-fifths of the City’s population by 1931, making Hamilton one of the most diverse cities on the continent (Harris and Sendbuehler, 1994). While a majority of Hamilton’s immigrants came from Britain, Scotland and Ireland, between 1910 and 1930 the City also became home to a significant number of Portuguese, Italian and Chinese immigrants putting an immense strain on Hamilton’s existing housing stock (Weaver, 1995; Freeman, 2001). Even the boarding houses constructed to house industrial workers during World War I could not support the number of people who moved into Hamilton during World War II. Between 1941 and 1942 alone, it has been estimated that over 5,000 workers moved into Hamilton to support the war effort (Weaver, 1982). In fact, in 1942 there was an average of three families living in every two residential units (Wood, 1978). Not unlike the current housing situation in the downtown, a majority of the dwellings in the east and north ends of Hamilton were occupied by renters (Weaver, 1982). Like previous generations, the conditions in many of these units were deplorable. Located in crudely renovated houses and above storefronts, close to 80% of these units lacked heating and appropriate bathroom facilities (Weaver, 1982). While Hamilton industrial workforce played an important role supporting both World Wars, the lack of commercial building and the influx of workers that flooded the City during the first several decades of the 20th century left the downtown in need of serious rejuvenation.

Post-War Urban Rejuvenation and Deindustrialization

In the years following World War II, improvements to infrastructure allowed motor vehicles to travel up and down the mountain making the upper part of the City more accessible (Freeman, 2001). While this sparked growth above the mountain, Hamilton’s inner City had begun to suffer physically and economically. After almost a century of development that
involved little planning, and in the aftermath of major labour disputes at Westinghouse, Firestone and Stelco throughout the mid-1940s, signs of physical deterioration in Hamilton’s downtown were matched with an uneasiness amongst business owners and civic leaders who worried about the City’s future (Weaver, 1982). By the mid-1940s, the east and north ends of the downtown were home to pockets of what were described as “urban blight” (Weaver, 1982). For the upper class elites, Hamilton was thought to lack refinement. As Weaver (1982) suggests, Hamilton’s culturally-minded expressed displeasure with the City’s small library, outdated art gallery and the absence of a symphony hall. By the 1950s, City politicians and business operators had become concerned that their “out-of-date city” was no longer able to compete with neighbours Toronto and Buffalo (Rockwell, 2009).

In the late 1950s and early 1960s, several amendments to the National Housing Act allowed federal government funds to be used to assist in civic improvement projects (Weaver, 1982; Rockwell, 2009; Freeman, 2001). The City first utilized the funds to demolish several buildings that were deemed to be unsightly and construct more low-income housing in the downtown core (Peace and Burghardt, 1987). Next on the agenda was an ambitious plan to give the downtown a long-awaited facelift. The City hired a local planner whose original conception for the “Civic Square” renewal project replaced several large buildings with more “people-friendly” pools (i.e., water features) and gardens (Rockwell, 2009). Despite having not yet secured funding for the Civic Square project, by the late 1960s the City of Hamilton had already begun to demolish over 43 acres of land in the downtown core (Rockwell, 2009). Financial restraints and growing commercial interest in the lower City influenced officials to remove the pedestrian-friendly features from the design in favour of an automobile-friendly grid of one-way streets (Rockwell, 2009). The City received two bids to complete the project and despite the
superiority of a builder from out of the town whose bid had been endorsed by City staff, City council decided to award the contract to the local Wentworth Development Company (Freeman, 2001). As demolitions continued and as 250 downtown merchants were displaced, the public became increasingly concerned about the lack of progress (Freeman, 2001). These concerns escalated when the Wentworth Development Company lost its financial backing and, thus, its contract with the City (Freeman, 2001). For almost a decade, acres of land in the downtown sat vacant and it was not until the provincial government intervened in the late 1970s that a modest version of the Civic Square was completed (Freeman, 2001).

During the Civic Square controversy of the 1960s, Hamilton employment sector began to shift away from heavy manufacturing. As was the case in other parts of Ontario, Hamilton’s educational sector rapidly expanded throughout the 1960s. In the late 1920s Hamilton had enticed McMaster University to move from Toronto by offering them a large parcel of free land in the neighbourhood now known as Westdale (Wood, 1987). By the 1960s the well-established University solidified itself as a leader in healthcare by adding a new medical school (Freeman, 2001). In 1967, Hamilton’s Institute of Technology formally became Mohawk College leading to the advent of a new campus located above the mountain which offered a range of apprenticeship and diploma programs (Freeman, 2001). While the education and healthcare sectors continued to grow in the 1960s, change was on the horizon for Hamilton’s steel manufacturing industry. Angering members of City Council and causing concern amongst Hamilton’s industrial workforce, Dofasco announced plans to relocate their head office to Toronto and begin construction of a new plant located outside of Hamilton on the shores of Lake Erie (Freeman, 2001). In the years that followed, the combined effects of technological change, the oil crisis of the early 1970s, a recession in the 1980s and the creation of NAFTA contributed
to numerous plants closures in Hamilton, including Slater Steel, Coca Cola, Otis Elevator, Firestone and International Harvester (Freeman, 2001; Harris et al., 2015). Offshore competition in the steel industry led to significant job losses, by 2001 for example, Stelco and Dofasco’s workforce had been cut in half (Freeman, 2001). Detrimental to the downtown core, Hamilton lost 24,000 jobs in steel manufacturing alone between 1989 and 2008 (City of Hamilton, 2010a). While Hamilton has been able to maintain its share of manufacturing jobs in smaller-scale and high-tech industries, deindustrialization has deeply impacted the City as a whole. In fact, no other Canadian City has been affected more by deindustrialization than Hamilton, especially in terms of income polarization which has been attributed to a steady decline of the City’s middle class (Harris et al., 2015). The loss of heavy-industry has also left many of Hamilton’s steelworkers questioning the extent to which lower-skilled labour has a place within the new global economy (Leach, 1998).

Before discussing Hamilton’s current socio-economic and political climate, it should be noted that the physical and social geography of the city, particularly the inner city, has been influenced by the deinstitutionalization that began in the early 1970s. Between 1974 and 1980, the number of licensed lodging homes increased from 33 to 91, a number that does not account for the numerous unlicensed homes that operated during this time (Dear and Wolch, 2014). Not unlike the present day, a majority of service-dependent individuals living in Hamilton’s lodging houses suffered from physical and mental illness (Dear, 1978). In 1978, in an effort to regulate lodging homes and address growing public concern, the City of Hamilton introduced a new by-law limiting the number of people who could reside within a lodging home. Hamilton’s

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42 Hamilton’s licensing by law (by law 07-170), uses the terms Lodging House and Rooming House interchangeably.
Residential Care Facility (RCF) by-law was also enacted in 1978, requiring detached facilities to uphold building and safety standards while catering to people who required longer-term care (Dear, 1987). The RCF by-law also introduced spacing requirements, set occupancy limits and permitted RCF’s to be located in all residential and commercial zones (Dear, 1987). As Dear (1978) suggests, the rapid growth of lodging homes and RCF’s in Hamilton’s inner City were a direct consequence of declining support for the welfare state and the move towards privatization and free-market competition. This trend is consistent with other Canadian cities where cuts in federal and provincial funding have led to a growing reliance on private sector social service providers (Hartford et al., 2003). Importantly, Hamilton’s downtown core remains a major social service hub, home to dozens of RCF’s, lodging homes and homeless shelters.

5.2: Post-Amalgamation Hamilton: A City that Remains Divided

As discussed above, by the late 19th century Hamilton had already established itself as a major industrial city. Corresponding with the growth of Hamilton’s industrial manufacturing base, by the early 20th century Hamilton was becoming more culturally and socio-economically diverse. While Hamilton’s employment profile has slowly moved away from industrial manufacturing to education and healthcare, the City has continued to become more socially, culturally and economically diverse. With this in mind, like in previous decades, modern day Hamilton remains a City that is politically and socio-economically divided.

As part of an initiative undertaken by Mike Harris’s Conservative provincial government, the former region of Hamilton-Wentworth amalgamated with the towns of Ancaster, Flamborough, Dundas, the City of Stoney Creek and the township of Glanbrook in 2001 to become the “New City of Hamilton” (Spicer, 2012). While amalgamation received support from
some Hamiltonians, residents living in Ancaster, Flamborough and Dundas voiced displeasure that their municipal taxes could potentially be used to fix the City’s aging infrastructure and ongoing deterioration of the inner City (Freeman, 2001; Harris et al., 2015). Over a decade later, the amalgamated City of Hamilton remains politically divided. This division is most evident between Councillors representing the downtown (formally Hamilton-Wentworth) and the upper City and rural Wards. Despite some turnover in electoral representation, Councillors from Hamilton’s inner City Wards have tended to support an agenda that differs from Councillors in Wards located outside the downtown (Spicer, 2012). This divide has been particularly evident in projects involving downtown infrastructure (Spicer, 2012). Amalgamation has remained a contentious issue over the last several years, emerging as part of the platform of one of the municipal mayoral candidates in 2010 (Harris et al., 2015). As recent as June 2015, Mayor Fred Eisenberger addressed the issue of “de-amalgamation” after a group of Flamborough residents presented a report to City Council suggesting their rural Ward could support itself independent from the rest of the City (Nolan, 2015). While the politics of amalgamation are not the primary focus of this study, it should be noted that some municipal law-related issues do vary between Hamilton’s lower City and mountain Wards. Concerns about gentrification, high-rise development, parking and certain types of nuisance in Hamilton’s lower City (Wards 1-5), differ in some cases from the issues in the upper City and rural Wards 6-15 (see Table 5.1). Due in part to deteriorating housing conditions, the high percentage of rental properties and concentration of poverty, many of the municipal law investigations that take place in Hamilton’s

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43 Concerns about how municipal tax revenue would be spent was also a contentious issue during amalgamation debates in Toronto (Keil, 2000).

44 As Figure 1 demonstrates, the boundaries of Ward 5 (Stoney Creek), place some residents in the lower City and some above the mountain.
inner City or downtown put officers in direct contact with Hamilton’s most marginalized populations. In this sense, more than just the physical geography of the Niagara escarpment and post-amalgamation politics divide Hamilton. Hamilton is divided deeply along socio-economic lines.

Hamilton is a City polarized by income disparities and plagued by high concentrations of poverty (Harris et al., 2015). Although income inequality exists throughout the City, the downtown core is where poverty is most predominate. For example, the downtown has an average household income almost 15% lower than the rest of the City and almost 25% lower than the provincial average (Statistics Canada, 2006). With no exception, all of the inner City Wards have a higher percentage of residents living below the Low Income Cut-off (LICO) compared to the rest of the City (City of Hamilton, Ward Profiles, 2009a).

**Figure 5.0: Hamilton’s Ward Map**

(City of Hamilton, 2010).
As Table 5.0 demonstrates, the concentration of poverty is most acute in Ward 2 where the average household income is almost $30 000 below the City average and where approximately 41% of residents live below the LICO. In comparison to Ward 2, fewer people live below the LICO in Wards 3 and 4; however, both Wards 3 and 4 have significantly lower average household incomes than the rest of the city. Compared to the rest of Hamilton, Wards 3 and 4 still have a higher portion of residents living below the LICO. Income disparity can be found in several distinct clusters within Hamilton’s downtown Wards.

<table>
<thead>
<tr>
<th>Ward</th>
<th>2005</th>
<th>% Low Income Status</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ward 1</td>
<td>$63 662</td>
<td>22.9%</td>
</tr>
<tr>
<td>Ward 2</td>
<td>$41 307</td>
<td>41.4%</td>
</tr>
<tr>
<td>Ward 3</td>
<td>$45 481</td>
<td>33.6%</td>
</tr>
<tr>
<td>Ward 4</td>
<td>$51 879</td>
<td>24.6%</td>
</tr>
<tr>
<td>Ward 5</td>
<td>$57 429</td>
<td>22.7%</td>
</tr>
<tr>
<td>City</td>
<td>$70 025</td>
<td>18.1%</td>
</tr>
</tbody>
</table>

(Source: City of Hamilton Ward Profiles, 2009a)

Located in Ward 2, some of the City’s most improvised reside in Hamilton’s Keith neighbourhood where it is estimated that seven out of ten children and close to half of seniors live in poverty (Mayo et al., 2012). Located beside the Keith neighbourhood, almost six out of ten Beasley area residents live below the LICO. The high school non-completion rate in the lower wards is notably lower than the rest of the Hamilton. In comparison to the City’s non-completion rate of just under 6%, over 17% of students in the Beasley neighbourhood do not complete high school (Mayo et al., 2012). The Stinson neighbourhood, an area also plagued by poverty, has a high school non-completion rate of 24% (Mayo et al., 2012). In Hamilton’s

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45 Post amalgamation Hamilton is home to 15 Wards.
McQuesten neighbourhood 75% of children live in poverty, almost triple the rate of the City as a whole. Deemed Hamilton’s “arrival neighbourhood” and home to the highest percentage of residents who identify as visible minorities, Riverdale has a poverty rate of 35% (Mayo et al., 2012).

The severity of these issues was first brought to the public’s attention in 2010 when research from McMaster University was used to inform the Hamilton Spectator’s award-winning series “Code Red”. While highlighting high rates of poverty through the downtown, the Code Red articles revealed a number of disturbing trends. For example, in one north end neighbourhood, 40% of adults did not have a high school diploma (DeLuca et al., 2012). In addition to shorter life-expectancy, residents in the inner City were more often in need of acute hospital care, required longer stays when admitted to the hospital and were more often in need of psychiatric assistance when visiting the emergency room (DeLuca et al., 2012). A recent study also found that residents in some downtown neighbourhoods have lower social capital and feel less safe than Hamiltonians who live above the mountain (Kitchen et al., 2012). Many of these issues are made further problematic by the downtown’s aging housing stock (see Table 5.1).

46 The Spectator’s Code Red series influenced Hamilton’s implementation of the Neighbourhood Action Strategy. This strategy matches community planners with community groups and residents to help address important issues within Hamilton’s poorer neighbourhoods (see table 1.2). As discussed in Chapter Two, this participatory approach attempts to integrate the community voice into the planning processes.
Figure 5.1.: Hamilton’s Neighbourhood Action Strategy Boundaries

![Map showing Neighbourhood Action Strategy Boundaries](image)


<table>
<thead>
<tr>
<th>Table 5.1 Total Number of Occupied Dwellings by Period of Construction</th>
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<tbody>
<tr>
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<tr>
<td>Ward 2</td>
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<td>Ward 5</td>
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<tr>
<td>City</td>
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<td></td>
</tr>
</tbody>
</table>

(Source: City of Hamilton Ward Profiles, 2009a)
Given Hamilton’s growth throughout the late 19th and early 20th century it is not surprising the City’s housing stock is aging. This is particularly true in parts of the downtown core where between 42% (Ward 1) and 65.2% (Ward 3) of occupied dwellings were built prior to 1945. As this same housing data suggests, just under 80% of the dwellings in Ward 1, close to 70% of the dwellings in Ward 2 and 85% of the dwellings in Ward 3 were built prior to 1970. With this in mind, a significant portion of inner City residents are renters. As Table 5.2 suggests, over 75% of people living in Ward 2 and close to half of Ward 1 and 3 residents rely on the rental market including several city-owned social housing units. Hamilton’s aging housing stock, high percentage of renters and alarming rates of poverty are made further problematic by estimates that over one-third (31%) of the City’s rental housing is in need of minor repair (City of Hamilton, 2013). Perhaps even more troublesome is the fact that 12.5% or roughly 7600 renter households are in need of major repairs (City of Hamilton, 2013). In fact roughly 17% of the houses located in the City’s north-end (the Beasley, Jamestown and Keith neighborhoods) are in need of major repairs (Mayo et al., 2015). Many of the properties in the north-end that require major repairs are owned by residents who live on low incomes and do not have the means to make necessary repairs (Mayo et al., 2015). Limited financial support from the federal and provincial government has also led to deteriorating conditions in the city-owned social housing units also located in the north-end (Mayo et al., 2015).
Table 5.2: Total Number of Occupied Private Dwelling by House Tenure (2006)

<table>
<thead>
<tr>
<th></th>
<th>Ward 1</th>
<th>Ward 2</th>
<th>Ward 3</th>
<th>Ward 4</th>
<th>Ward 5</th>
<th>City</th>
</tr>
</thead>
<tbody>
<tr>
<td>Owned</td>
<td>7 395</td>
<td>4 260</td>
<td>8 990</td>
<td>10 660</td>
<td>8 510</td>
<td>132 785</td>
</tr>
<tr>
<td>Percentage</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Owned (%)</td>
<td>54.3%</td>
<td>24.9%</td>
<td>53.7%</td>
<td>71.9%</td>
<td>55.5%</td>
<td>68.3%</td>
</tr>
<tr>
<td>Rented</td>
<td>6 225</td>
<td>14 600</td>
<td>7 745</td>
<td>4 170</td>
<td>6 825</td>
<td>62 675</td>
</tr>
<tr>
<td>Percentage</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Rented (%)</td>
<td>45.7%</td>
<td>75.1%</td>
<td>46.3%</td>
<td>28.1%</td>
<td>44.5%</td>
<td>31.7%</td>
</tr>
</tbody>
</table>

(Source: City of Hamilton Ward Profiles, 2009a)

As discussed above, Hamilton has always been a culturally diverse city. Not unlike previous generations, a significant proportion of Hamilton’s downtown population is comprised of immigrants and visible minorities. With the exception of Ward 4, all of the downtown Wards have a higher percentage of residents who identify as visible minority compared to the City’s average of 13.6%. The highest percentage of visible minorities live in Ward 2, representing just over 25% of the population. A significant portion of Ward 2’s visible minority population are comprised of Chinese, Black and South Asian residents (City of Hamilton, 2009a). Ward 2 is also home to the highest percentage of recent immigrants (10.4%) with a majority coming to Hamilton from Africa and South Asia (City of Hamilton, 2009a). While close to 18% of Ward 1 identify as a visible minority, it is Ward 5, home to the Riverdale neighbourhood, where roughly 39% of hold immigrant status. With these numbers in mind, few would dispute that the composition of several of Hamilton’s downtown neighbourhoods is changing rapidly as a more diverse population is drawn to the inner city. Importantly, the racial and cultural diversity found in the downtown have been accompanied by a resurgence of the middle and upper-class moving back into neighbourhoods that have been long considered working-class. Welcomed by many City planning officials and often challenged by long-time downtown residents and

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47 Part of this research originally sought to the extent to which, if any, the enforcement of municipal law affected Hamilton’s culturally and racially diverse populations. However, the research agreement that allowed this project to move forward significantly restricted the data collection of indicators related to diversity.
neighbourhood associations, Hamilton’s inner City is in the midst of an economic upturn that could reshape the downtown for years to come. Drawing on secondary statistics and data from interviews with City planners, this Chapter will now provide an overview of the numerous factors contributing to economic growth in Hamilton’s lower city.

**Economic Upturn and Downtown Gentrification**

Hamilton’s role as Canada’s primary steel manufacturer has influenced the City’s economy and shaped the social and physical geography of the city. Throughout the last century, several waves of industrial expansion left the City playing catch-up as the influx of industrial workers who outnumbered Hamilton’s existing housing infrastructure. Although the growth of healthcare and education sector employment has helped fill the void created by fleeing industry, the footprint left by heavy steel manufacturing has had serious economic and physical effects on Hamilton’s inner city. Since the 1970s, many of the east and north end neighbourhoods that once housed Hamilton’s industrial blue-collar workers have become worn down and are now home to abandoned buildings and vacant storefronts. Importantly, the physical landscape of the downtown has also been shaped by Hamilton’s piecemeal planning decisions throughout the 1960s and 1970s. As City planning officials discussed during interviews, the planning decisions made by Hamilton during this time period favoured vehicular traffic and larger scale retail operations. As one planning official outlined:

Some of the downtown mega block developments really cut into the urban fabric, poor design also sucked some of the life out of the streets...it made it an almost inhospitable environment, they thought brand spanking new buildings would solve the problem but, you know...even if a building is new, it’s not necessarily going to be a good build...but now looking back, we understand why that type of design did not work.

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48 Once vacant retail spaces in the downtown Jackson Square shopping centre are now rented by the City of Hamilton and have been converted into offices.
While the downtown is home to several large parks and greenspaces, lingering safety concerns have been said to have tarnished the reputation of the inner City’s public spaces and resulted in limited pedestrian use (Craggs, 2014). However, since the recession of 2008, Hamilton has experienced economic growth. This section will overview the economic growth (and provide statistical evidence of such growth) that Hamilton has experienced in recent years and will highlight the factors driving the inner City’s gentrification. This section will also be supplemented with data drawn from interviews with City planning officials.

Both the production and consumption models (see Slater, 2011) found within existing gentrification research are relevant when it comes to explaining the economic shifts taking place in downtown Hamilton. As discussed in Chapter Two, the production standpoint suggests capital investors are drawn to underdeveloped parts of a city where property values are relatively low. While some neighbourhoods offer a short-turnover, areas of a city with higher proportions of “urban blight” often require a longer-turnover period and require capital investors to wait longer for a worthwhile return on their initial investment (see Weber, 2002).49 As the production model suggests, to a certain extent gentrification is driven by factors that are almost entirely market-oriented. This is particularly relevant in Hamilton, where housing costs have been historically lower in comparison to the neighbouring Greater Toronto Area (GTA). In fact, according to the Canadian Mortgage and Housing Corporation (2015), high housing costs combined with a limited supply of single-detached homes in the GTA is one of the main factors driving Hamilton’s real estate market. Hamilton’s affordability was a reoccurring theme in

49 See Chapter Two for a more detailed review of the literature on gentrification and the production and consumption models.
interviews with planning officials. For example, when asked to discuss the factors driving the economic upturn in Hamilton one planner suggested:

You see the migration out of Toronto…the commute times are becoming crazy, one of the most congested stretches of highway in North America is between here [Hamilton] and Toronto. So those folks, if they can, are saying I am going to live and work in Hamilton. So we are benefiting from a lot of people that are coming from Toronto and want to live in the downtown [Hamilton].

Some City planning officials also noted how the developers themselves are coming from the Toronto area to build in Hamilton and how this was influencing the type of development taking place in Hamilton. For example, one planner discussed how:

A lot of the development is being driven by out-of-town developers, our local guys are used to doing suburbs...these new developers, a lot of the them are coming from places like Toronto...the ideas are coming from Toronto as well...higher density builds like condominiums.

Planners also discussed the significance of large development projects in the City’s downtown core being backed by financial lenders. As one official put it “there is a buzz around Hamilton, and that buzz attracts investors…Hamilton has turned the corner, in the 1990s there were lenders who wouldn’t do financial mortgages north of Barton Street…I mean designated areas were ‘blacklisted’ so to speak”. While some officials saw the migration of people from the GTA as a choice, others discussed how high housing costs in the GTA were actually forcing some to move. For example, one planner described how “people are basically being displaced from Toronto; as a result we are seeing the creative artist communities coming to Hamilton looking for cheaper rent...Hamilton housing costs are much cheaper here, for us [the City of Hamilton] it is a demographic shift”. While the exact figure is unknown, it has been estimated that roughly 25% of buyers entering into the Hamilton housing and condominium market are coming from the GTA (Bennett, 2015). The migration of people from the GTA combined with an increase in
high-rise condo buildings and new amenities in downtown Hamilton has impacted housing prices significantly.

According to the Canadian Mortgage and Housing Corporation (2015), the average house price in Hamilton jumped from just under $334,000 in 2011, to almost $385,000 in 2013. Based on the most recent data, the average house price in Hamilton in 2015 is slightly under $442,000, signifying a hundred-thousand dollar increase in roughly the last five years (Canadian Mortgage and Housing Corporation, 2015). The hype surrounding properties in Hamilton’s lower City neighbourhoods has been fueled by stories of bidding wars. For example, a *Toronto Star* article chronicled a case where a two-and-a-half storey east-end home sold for $170,000 over its $299,000 asking price because of a bidding war (Pigg, 2003). While most discussed the positive side of Hamilton’s growing real estate market, one official spoke at length about the detrimental effects Hamilton’s gentrification is having on some residents. As the official explained:

In general, gentrification is a good thing; however, there is a sector of Hamilton’s population, specifically in the downtown who are being priced out of the market. An increase in property values leads to an increase in market assessment and therefore property taxes increase and the question becomes does that person get priced out of the market because they cannot afford to pay their taxes?

Other planning officials took a less sympathetic view on the effects gentrification was having in the downtown core. For example, when asked why some people oppose development in the downtown (similar to the example given in this Chapter’s opening narrative) one official suggested:

There are some people that argue that gentrification is a bad thing… there are some aspects of gentrification that have a downstream effect… that is the displacement of some people who can no longer afford to rent where they were… Okay, that is not a reason to

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50 Canadian Mortgage and Housing Corporation (CMHC) data is generated from the Hamilton Census Metropolitan Area (CMA) which includes the City of Burlington. As noted elsewhere (see for example, Harris et al., 2015) by including the City of Burlington, the data generated from the CMHC does not offer a complete picture of the City of Hamilton’s actual housing data as traditionally house prices in Burlington have higher than Hamilton.
not allow a neighborhood to improve… I’m sorry you can’t tell people, because there is a lot of poor people here you can’t improve your home… Some people tend to miss the boat… Instead of asking how can we improve the income levels of those people… people [who oppose gentrification] are saying keep those houses run down so they can rent them for $400 a month…it’s the wrong way to go about it.

While rising house prices in Hamilton is a good indicator that the City is becoming a more desirable place to live, CMHC data only tells part of the story. Another indicator used by the Canadian municipalities to measure growth is the total number of building permits issued in a particular year. Data on building permits issued in Hamilton’s lower City Wards since 2007/2008 is quite telling in this regard.

<table>
<thead>
<tr>
<th>Table 5.3: Number and Percentage of Building Permits Issued: 2007-2013</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Ward</strong></td>
</tr>
<tr>
<td>Ward 1</td>
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<tr>
<td>%</td>
</tr>
<tr>
<td>Ward 2</td>
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<tr>
<td>%</td>
</tr>
<tr>
<td>Ward 3</td>
</tr>
<tr>
<td>%</td>
</tr>
<tr>
<td>Ward 4</td>
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<tr>
<td>%</td>
</tr>
<tr>
<td>Ward 5</td>
</tr>
<tr>
<td>%</td>
</tr>
<tr>
<td>Lower City</td>
</tr>
<tr>
<td>%</td>
</tr>
<tr>
<td>Hamilton*</td>
</tr>
<tr>
<td>%</td>
</tr>
</tbody>
</table>

*Percentages of City of Hamilton Total (columns totals do not represent all city Wards)

(Source: City of Hamilton, Economic Development Activity Report, 2014)

Not unlike other municipalities, building permits are required when erecting, extending, altering, repairing or demolishing a building in Hamilton (City of Hamilton, 2015). As Table 5.3
demonstrates, in 2007 Hamilton issued 825 building permits in the lower City Wards (Wards 1-5) accounting for 21% of the City’s total. Increasing only incrementally between the recession years of 2008-2009, the number of permits issued throughout the City in 2010 jumped considerably to over 6500. While the total number of building permits issued in 2010 is an indicator of growth throughout the entire City, the 2191 (33.4%) of permits issued in the lower City Wards cannot be overlooked. With the exception of 2011 when the total number of building permits issued dropped slightly to 31%, growth in the lower City wards has been remarkable. Despite a drop in the total number of permits issued throughout Hamilton, in 2013 over half the building permits issued where given in lower City Wards. Data on the estimated value of residential building permits also helps demonstrate how the downtown core is growing.

| Table 5.4 Residential Building Permit: Estimated Value 2007-2013 |
|----------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|
| 1    | $3 336 555 | $5 229 499 | $15 718 342 | $23 923 689 | $49 077 180 | $9 612 159 | $5 142 675 |
| 2    | $7 243 223 | $5 233 149 | $6 945 051 | $7 112 020 | $24 630 853 | $72 417 001 | $34 156 087 |
| 3    | $1 962 569 | $2 593 988 | $2 982 470 | $2 962 507 | $5 854 405 | $3 142 672 | $4 013 260 |
| 4    | $2 208 725 | $2 128 560 | $3 018 501 | $9 959 643 | $2 553 188 | $1 795 104 | $7 254 485 |
| 5    | $2 680 316 | $9 893 567 | $6 706 970 | $2 897 211 | $3 245 639 | $9 396 139 | $2 060 379 |
| Total Lower Ward | $17 431 388 | $25 078 763 | $35 371 334 | $46 855 070 | $85 361 265 | $96 363 075 | $52 626 886 |
| Total City | $383 076 230 | $409 267 130 | $277 450 388 | $581 087 483 | $431 492 648 | $659 224 731 | $526 011 776 |

(Source: City of Hamilton, Economic Development Activity Report, 2014)

In comparison to the City as a whole, the lower City Wards have accounted for roughly 10% to 20% of the total estimated value of building permits issued between 2007 and 2013. While this may seem miniscule given what is discussed above, the lower City’s existing use patterns, higher density and vastly different styles of new builds in comparison to the rest of the
City (condominium/apartment style opposed to detached homes) must be taken into account. For example, in comparison to the rural Wards (Ward 11 in particular) the downtown Wards have had far fewer detached homes built in the last decade. At the same time, the variation in the estimated value of residential building permits between lower City Wards reveals several interesting patterns. As Table 5.4 demonstrates, since 2010 the estimated value of residential building permits in Wards 1 and 2 far surpasses the rest of lower City. In 2010, Wards 1 and 2 accounted for over 65% of the total estimated value of residential building permits throughout the entire lower City. That number skyrocketed to 86% in 2011, staying relatively stable at 85% in 2012. Ward 2 in particular has experienced considerable growth accounting for 75% of the total estimated value of residential building permits in all of the lower Wards in 2012. One of the main factors driving residential growth in Ward 1 and more so Ward 2, is the advent of high-rise condominiums. For example, between the 150 Main building located next to Hess Village, the Connolly development across from Jackson Square and the conversion of Hamilton’s iconic Royal Connaught hotel into a condominium, Hamilton’s Ward 2 is slated to add over 2300 new residential units (Bennett, 2015). Leaping into unchartered territory, condos in Hamilton’s downtown are selling for over $400 per square-foot with penthouse suites selling for over $1 million (Bennett, 2015). While these downtown condo developments will offer new housing options for some, the reality is that within the shade-path that several of these new high-rise buildings cast on a clear day are people living well below the poverty line. Despite the condominium boom in Ward 2, close to 42% of residents still live below the LICO (City of Hamilton Ward Profiles, 2009a).

The estimated value of annual Industrial, Commercial and Institutional (ICI) building permits also highlights some interesting growth patterns within the lower City Wards. Data on
ICI building permits also helps explain how the employment profile of Hamilton’s inner City is changing. As Hamilton’s Economic Development Activity Reports (2014) suggest, a large majority of the estimated value of ICI building permits issued between 2008-2013 in Hamilton’s lower Wards were commercial and institutional. The noteworthy exception is Ward 4 where over half (55%) of the estimated value of ICI building permits were industrial. Given Hamilton’s affordability in comparison to neighbouring cities and residential growth below the mountain, it is not surprising that a high proportion of the estimated value of ICI building permits issued in the lower City has been commercial. This is especially true in Ward 2 where the average estimated value of annual commercial building permits issued between 2008 and 2013 was over $29.2 million. Home to McMaster University and Hamilton Health Sciences, over half (56%) the estimated value of ICI building permits issued in Ward 1 between 2008 and 2013 were institutional. In Ward 2, a majority (54%) of the estimated value of ICI building permits issued in the same timeframe were commercial. Between 2008 and 2013 only a small percentage of the estimated value of ICI building permits in Ward 2 were industrial (3%).

Taking into account all of the data presented in Table 2.0, the projected value of over $61 million worth of institutional permits issued in Ward 2 in 2013 is worth noting. As City documents suggest, $60 million of the total estimated value of all institutional building permits issued in Ward 2 in 2013 stems from the assessment of McMaster University’s new downtown location (City of Hamilton, Economic Development Activity Report, 2014). Ironically, not unlike the incentive that first encouraged McMaster to uproot itself from Toronto in the 1930s, City council decided to donate City-owned property to the University, securing their move into the heart of the downtown (Craggs, 2014). During one interview, an official discussed the significance of McMaster’s presence in the downtown. According to the planner:
No revitalization plan in North America has been successful without the presence of a University. It’s why we pushed McMaster so hard, we gave them $20 million so they would be here [in the downtown] … Students are critical, they provide eyes on the street, they provide some enthusiasm, they provide customers for restaurants, bars, bookstores, clothing stores.

If the production model explains gentrification by focusing on land depreciation and property values, the consumption model offers a more social explanation. Since the 1960s, cities like Toronto have experienced a significant migration of middle and upper-class families back to the inner city. As this body of literature suggests, the root cause of this middle and upper class resurgence into working class neighbourhoods has been linked to changing work patterns, a quest for personal agency and a desire to escape the blandness of the suburbs (Slater, 2011; Ley, 2006). Hamilton’s downtown offers all of the above.

While employment in heavy manufacturing has declined in Hamilton since the mid-1970s, employment in healthcare and education has expanded rapidly (Harris et al., 2015). Once considered the hub of retail business, the employment profile of downtown has changed dramatically since the 1970s. This employment shift is closely related to the downtown’s gentrification. As recent data suggests, in 2014 roughly 15% of all jobs in Wards 1 to 3 were retail or entrainment-based (City of Hamilton, 2014a). In this same year, government jobs (federal, provincial and municipal) represented just under 25% of the all employment in the downtown (City of Hamilton, 2014a). Professional, healthcare, science-based and social services employment combine to make up just over 26% of jobs in Wards 1 to 3 in 2014 (City of Hamilton, 2014a). A good proportion of finance based jobs and creative industries such as the
visual and performing arts are also located in the lower City (City of Hamilton, 2014a). In 2014, only 1% of the jobs in Wards 1-3 were industrial (City of Hamilton, 2014a).

As Hamilton’s Economic Development Strategy (2010a) suggests, future growth will depend on the City becoming “a place to work, live and play”. While Hamilton’s inner City employment profile has shifted in recent years to attract more of what Florida calls “creative industries,” the City has also done their part to promote the downtown as a place that offers new and unique places to live. As consumption-oriented research suggests, middle and upper class gentries are drawn to “character-rich neighbourhoods”. In addition to the condominium boom, the demand for Hamilton’s stock of late-18th and early 19th century housing has also contributed to the gentrification of the downtown. Given Hamilton’s early development in the lower City, especially in the southern parts close to the mountain, the City is home to a significant number of what the real-estate business calls “heritage homes”. A study by a non-profit research firm based in Hamilton found the average estimated value of most heritage homes in Hamilton’s downtown were double that of non-heritage homes (Urban Insights, 2012). In extreme cases, Ward 2 houses that have received heritage designations from the City of Hamilton had an estimated value 197% higher than the rest of the Ward (Urban Insights, 2012). While Hamiltonians have traditionally avoided heritage homes, renewed interest in Hamilton’s downtown has drawn in waves of outside investment interest (McLeod, 2010).

In addition to promoting the downtown as a unique place to live and work, natural and cultural amenities have also been identified by the City as an important marketing tool.

51 The City of Hamilton uses a narrow definition of “creative industries” in comparison to Florida (2004). For Hamilton, creative industries are comprised mostly of people working in visual and preforming arts. According to Florida’s definition (discussed in Chapter Two) it could be argued that a majority of employment opportunities in Wards 1 to 3 are creative.
According to the City, Hamilton’s expansive waterfront, newly created pedestrian and bike-friendly transit ways, hip new coffee shops and bars, vibrant art scene and a plethora of cultural festivals are all playing an important role in urban renewal (City of Hamilton, Economic Development Strategy, 2010a). While change has been incremental, pedestrian-focused planning and the addition of new amenities have made the downtown core a more attractive place for the middle and upper-class. At the same time, it would be farfetched to suggest that Hamilton’s transition to a “creative” or “world class” City is a foregone conclusion. As City documents suggest, securing Hamilton’s long-term economic vitality will involve both strategic planning and marketing. This Chapter will now turn to a discussion of these planning documents.

5.3: Planning Hamilton’s Future: The Return of the Ambitious City

Promoting Hamilton’s recent economic upturn, a two-and-a-half minute video produced by the City’s Economic Development department notes how the City was the first in North America to have electric streetlights, was once home to the most affordable energy in Canada and was one of the nation’s first manufacturing giants. Filmed in a large warehouse and narrated by a lone-male wearing a hard hat, the promotional video suggests Hamilton is no longer the “Electric City” or the “Steel City”. Shifting from the warehouse scene to images of McMaster University, Hamilton Health Sciences and several of the new downtown condominiums, the video suggests Hamilton is “Ontario’s fastest growing economy” and the “best place in Canada to invest”. Symbolic of the City’s attempt to shed its Steel Town reputation, the closing scene of the video shows a small flame from a hand-held blowtorch being extinguished and is accompanied by the message that Hamilton will be forever known as “the Ambitious City”.
Economic growth in Hamilton’s downtown neighbourhoods is being driven by multiple factors. As discussed above, the City’s affordability, expanding employment opportunities in health care and education and new downtown amenities have all played a part in Hamilton’s growth in the last several years. At least to a certain extent, some of Hamilton’s economic growth is a result of private market forces that have little to do with the City’s strategic planning. On the other hand, Hamilton has devoted a significant amount of time and effort to promote the City as a world-class place to “work, live and play”. Connecting the City’s strategic planning efforts to the literature reviewed in Chapters Two and Three, this section will discuss how Hamilton is attempting to transform itself into a globally competitive “world-class” City.

Selling the City: Entrepreneurial Planning, Innovation and Cultural Promotion

In the wake of heightened economic competition on a national, regional and local scale, city governments have become increasingly concerned with what Ashworth and Voogd (1990) call “market planning”. As Ashworth and Voogd, (1990, p. 12) explain:

Market planning involves procedures and strategies through which urban space is adapted as far as possible to accord with the wishes of selected target groups with the objective of creating the conditions for the efficient operation of social and economic functions and activities of the area concerned, according to collectively established goals.

While it would be incorrect to suggest all of Hamilton’s strategic plans focus entirely on economic-growth, several City documents are forthright about the City’s need to market itself as a modern “world-class” City. In this regard, while Hamilton’s “long-term visioning” is articulated through a hierarchy of documents, much of the language used is consistent with what has been described above as market planning.

As discussed throughout the urban studies literature, the competitive undertones of neoliberalism have had considerable influence on city planning. In an attempt to foster
economic growth, local governments have adopted entrepreneurial approaches to urban rejuvenation. As part of the entrepreneurial growth equation, local city governments focus on marketing specific areas of the city in order to attract outside investment and spark potential growth. Not surprisingly, a significant portion of Hamilton’s economic agenda focuses on the marketing and rejuvenating the downtown core. In fact, Hamilton’s Economic Development Strategy (2010a) suggests the promotion and rejuvenation of the downtown as playing a pivotal role in securing the City’s overall economic vitality. In addition to being listed as a top priority in Hamilton’s Corporate Strategic Plan (2012), the City’s detailed Economic Development Strategy (2010a) suggests, that if marketed effectively, the downtown’s unique heritage, character rich-neighbourhoods, cultural diversity, niche retail experiences and natural amenities are all potential magnets that will ensure prolonged investment within the lower City.

As City documents suggest, Hamilton faces monumental challenges when it comes to shedding their long-standing Steel-Town reputation (City of Hamilton, Economic Development Strategy, 2010a). One way that Hamilton is attempting to accomplish this is by marketing the downtown core and neighbouring waterfront as places that provide more than a “retail experience”. As discussed earlier, the advent of several high-rise condos is undoubtedly changing the physical and social landscape of the downtown. This landscape will continue to change as several more condominiums are slated to be built in Hamilton’s West Harbour waterfront region.

While past waterfront rejuvenation projects have focused primarily on public access, the City’s more recent development agenda focuses on invigorating private interest in the Barton-Tiffany West Harbour area. Located in the socio-economically diverse north end of Ward 2 and once home to heavy industry, the City of Hamilton originally acquired the 11-acre parcel of land
with plans to build a stadium to support the 2015 Pan-Am games and Hamilton’s CFL franchise, the Hamilton Tiger Cats (Buist, 2012). After deciding to rebuild the stadium in the same location are the original, the Barton-Tiffany area has undergone an ambitious redesign rendering the area appropriate for mixed-use, high and medium density condominiums and commercial spaces (Craggs, 2014b). Touted as a “world-class waterfront neighbourhood” located steps away from the downtown core, a promotional real estate magazine published by the City of Hamilton predicts the new development could bring thousands of new residents into the area (City of Hamilton, Commercial Real Estate Report, 2015 p. 18). Promoting Hamilton’s natural and consumption based-amenities were discussed by several City planning officials. These discussions were often linked to the importance of attracting new knowledge-based industries and more specifically the creative class. As one official explained:

We are trying to create jobs specifically in the knowledge-based and creative sectors. We [the City of Hamilton] are working towards building a type of lifestyle here…Our creative sectors are growing, by creative we [the City of Hamilton] mean, digital media architects, planners those types of things. Why is that? Part of it is lifestyle…they can live in a nice old home, on the water; close to the Niagara escarpment, it attracts people in creative industries. They [the creative class] are more likely to care about lifestyle opposed to someone in a manufacturing job.

Echoing Florida’s creative class thesis, a different planner explained the importance of promoting Hamilton as a lifestyle choice opposed to simply a City to work in. According to the planning official:

It is important for us [the City of Hamilton] to emphasize that Hamilton is a place to live, work and play…and learn, we recently added that [learning] too…things have changed a lot in the few decades. People used to move to a city because of a job…but that’s changed, there is a younger generation of people who want to live in a place that suits their lifestyle…the lifestyle component is so important.

As discussed above, the physical changes that are taking place in Hamilton’s downtown are being accompanied by considerable shifts in the City’s employment profile. While
promoting Hamilton as a lifestyle choice is important to the City’s redevelopment agenda, City documents also acknowledge the importance of wide scale shifts within employment. For example, not unlike other cities, Hamilton’s ability to stay competitive within the local and global economy is said to require a focus on creativity, innovation and entrepreneurialism (City of Hamilton, Economic Development Strategy, 2010a). Acknowledging the importance of what are referred to as “knowledge-based industries,” Hamilton’s goal of making the City the most “innovative and entrepreneurial City in North America” has shifted the focus away from heavy industry to the creative, high-tech, health and educational sectors (City of Hamilton, Economic Development Strategy, 2010a p. 5). Importantly, this is not to suggest that Hamilton is no longer a manufacturing City. However, similar to broader global trends in advanced manufacturing (see Hobor, 2012; Stolarick et al., 2012) the skill-set required to work in industry in Hamilton has shifted. As one official explained:

We are still a manufacturing City and that is key…we do not want to lose that. We still produce over 40% of Canada’s steel… I don’t know what the exact number is…the thing is these industries have changed, you don’t need a strong back anymore. You need good computer coding skills.

Closely related to Hamilton’s attempt to shed its industrial label and attract members of the “creative class,” City documents also embrace the importance of promoting the City’s arts and cultural sectors. In fact, citing Florida’s work, planning documents suggest the promotion of Hamilton’s arts and cultural sector will contribute to “an economically healthy City” (City of Hamilton, Economic Development Strategy, 2010a). In doing so, City documents promote the need to strengthen the link between “quality of life, economic vitality and culture”. Published in 2013, the City’s Cultural Plan, entitled Transforming Hamilton through Culture reinforces the importance of cultural promotion suggesting it will be a key “economic engine” in downtown
rejuvenation efforts. In addition to being a magnet for tourism and critical to downtown renewal, the plan also suggests that culture plays an important role in how people define Hamilton’s identity (City of Hamilton, Cultural Plan, 2013c). Importantly, as will be discussed below these growth and rejuvenation efforts have been accompanied by several strategic incentives to further Hamilton’s place within the competitive economy.

While intricate planning documents and economic development brochures can promote rejuvenation efforts, the actual turn-around of “blight-filled” or neglected areas of City is almost entirely dependent on investment from the private sector. As discussed throughout the entrepreneurial planning literature, redevelopment agendas that promote urban renewal are usually quite speculative in nature. Reflecting on the last several years of development in the downtown core, one official explained how “five years ago we were trying to convince people that what was going on was real…have you heard the term fake it until you make it? …That was us telling Mr. Investor, Mr. Citizen that the change was happening in Hamilton”. With that being said, given the local competition between municipalities, cities like Hamilton have used a range of different financial tactics to entice outside investment.

In order to spark economic interest in Hamilton’s downtown, the City has initiated several growth-oriented initiatives and zoning policies. For example, in the last decade the City of Hamilton has offered a series of financial incentives aimed at drawing new investment into the inner City and improving existing properties in disrepair. Designating a significant portion of the downtown a Community Improvement Project Area (CIPA), the City offers 11 different incentive programs including loans for the construction of multi-residential properties and several grants for improving commercial façades and rejuvenating heritage buildings (City of Hamilton, CIPA, 2014). In 2004, Hamilton also began waiving 100% of development fees
within the CIPA. While the City has since reduced that number to 85% percent in 2014, Hamilton waived what would have resulted in over $11 million of development tax revenue (Moro, 2015).

Consistent with the principles of the New Urbanism, Hamilton’s new comprehensive zoning by-law has designated a portion of the downtown suitable for mixed use. As several City planners discussed, Hamilton’s original zoning by-law, enacted in the 1950s and still governing land-use in parts of the north end of the City, has hindered economic development in the past. For example, discussing the zoning restrictions in the Barton Street area, one planner explained how:

We [City of Hamilton] need to make it easy for people to open businesses along that corridor, part of problem right now is the zoning there is quite antiquated, you pretty much can’t do anything without needing a minor variance or a zone change…it’s a deterrent especially to a start-up business…for them [the start-up business] to take on those types of expenses is huge.

Unlike the zoning of existing plots of land, newer large-scale developments integrated into the City’s official plans offer more opportunity to use more flexible land-use designations. For example, mixed-use zoning is a key feature of the Barton-Tiffany West Harbour development. As Hamilton’s West Harbour Plan entitled “Setting Sail” (2005) suggests, once developed, the West Harbour will be home to a mix of commercial, higher density residential and recreational uses with self-contained amenities. Mixed-use zoning is also believed to play a key role in increasing density, linking downtown amenities and assisting in urban renewal (City of Hamilton, Economic Development Strategy, 2010). Land-use policies and flexible zoning are

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52 Like other municipalities, Hamilton’s development fees cover the projected infrastructure costs.
53 The Ontario Municipal Board approves official and secondary plans (e.g., Setting Sail) after a municipality consults with the community. This approval process would include any changes to the designated use of the property. A similar public consultation process must take place for site-specific zoning changes.
also being used in attempts to attract creative industries. For example, the City’s Urban Hamilton’s Official Plan (2011) has amended the description of “industrial-use” to include studio spaces that produce cultural-oriented products (e.g., dance and art studios). Hamilton’s Cultural Plan also recommends the City explore ways to reduce impediments for cultural sector businesses through the loosening of licencing and zoning regulations (City of Hamilton, Cultural Plan, 2013c).

While Hamilton has gone to considerable lengths to attract new businesses and consumers into the downtown, close to two centuries of industrial manufacturing have left a noticeable mark on the physical landscape of the lower City. Abandoned buildings, vacant storefronts and a highly visible presence of what some might call “urban undesirables” have led some to the perception that the downtown is unclean and unsafe. With this in mind, many of Hamilton’s strategic economic goals are almost entirely dependent on improving perceptions of the downtown. As will be discussed below, several City planning documents and private consultant reports put forth that improving the physical appearance of Hamilton’s downtown core is expected to play a vital role in improving the City’s reputation and will aid in securing long-term economic stability. As the following section will review, several of these same documents suggest that the enforcement of municipal law can play an important role in achieving this objective.

**Rebranding the Inner City and Fixing Broken Windows**

Not unlike other deindustrialized cities, Hamilton has devoted significant resources to transforming its image from a blue-collar manufacturing City to a creative, innovate and globally competitive City. However, altering people’s image of Hamilton involves more than just
demonstrating the City’s knack for innovation and ability to adapt to the post-industrial economy; this is particularly true in the downtown core. As discussed in Hamilton’s Economic Development Strategy (2010a) and the Secondary Plan for the downtown entitled Putting People First (2001) one of the most monumental obstacles Hamilton is believed to be faced with is changing people’s perceptions that of the downtown core as unclean, unfriendly and unsafe. The downtown’s less favourable reputation has also been identified as a detriment in several City sponsored consultant’s reports (See Public & Private Security Management, 2007; The Planning Partners, 2014). Hamilton’s reputation is believed to have been tarnished further by media accounts that portray the City as an industrial wasteland that looks and smells bad (see Wakefield, 2007; Wakefield and McMullan, 2005).

The importance of changing people’s perceptions of safety in the downtown core was also a commonly discussed theme during interviews with City planning officials. As one planner outlined:

Safety is as much perception as it is reality… so if you think it’s safe, you are going to act and behave differently…places that are perceived as safe will attract people and it’s having them around that creates the safety…there are eyes on the street…people around you…you’re not isolated, you don’t have that feeling that something could happen to you and no one would know.

Several officials discussed the link between perceptions of downtown safety and the core’s lack of density. For example, according to a different planning official:

If you are walking along a street and no one’s around…let us say in the downtown and you see someone across the street who…I don’t know might look sketchy…it effects how you feel about the area. However, if you are walking along the same street and there are dozens of people around, that same person probably would not bother you at all…you probably would not even notice them.

For others, changing the perception of the downtown as unsafe involved debunking some of the myths about Hamilton’s downtown populations. As one official reflected:
I think part of it is about raising awareness and debunking some myths… I think a lot of it is about perception but of course for most people perception is reality. So I think it is about informing people so at least their perceptions are accurate. I mean as a resident, I don't have a problem living in the downtown and using the downtown's amenities but that is not the case for others… all we can say is here is our programs and services and here are the clients we deal with… for the most part safety is not an issue. I think it's a general perception people have, and it's powerful… I don't know the crime stats, perhaps they would debunk some of those myths… I mean I know the police have increased their presence in some areas… I think that helps a little bit with perceptions of feeling safe.

While several planning officials discussed the role Hamilton police play in improving safety in the downtown, one planner noted how increased police presence could also negatively affect people’s perceptions of the area. According to the official:

We need to work with the police… you know police presence. I know over the years we have worked with the police on a number of initiatives… I mean I think it is a little bit of a double edged sword, people say ‘wow I am seeing a lot of police, then there must be a problem’… you have to be conscious of that in the downtown in particular.

While newly added amenities and condominiums are contributing to pockets of urban renewal and may be helping change the image of the lower City in some areas, a significant portion of the downtown remains in disrepair, serving as a visual reminder of the toll deindustrialization has had on the City. As noted above, while planners discussed the link between social disorder and perceptions of safety in the downtown core, the need to address physical disorder was also a reoccurring theme during interviews. For example, as one official explained “a lot of it comes down to property standards, if you have a broken window, you got to get it fixed, you have graffiti, get that fixed I… guess you could say that environment really does drive behaviour”. These signs of physical disorder are especially evident in the commercial corridors and neighbourhoods that once served as gateways to Hamilton’s vast industrial properties. Referring to this area of the downtown, a different planning official explained how:

If people feel their surroundings look good they’ll feel safe… I’ll give you a good example, I know someone who recently bought a wag-jag deal for a manicure down on
Barton Street, she phoned her husband and told him ‘I am at XX Barton Street, just in case I’m never heard from again’… And he said ‘what the hell you talking about?’ It was just the storefront… it was just a little sketchy looking…So it’s rather straightforward, if it’s just the appearance that makes people feel unsafe that’s what we address.

Although a more thorough discussion of absentee landlords will be given in the following Chapters, neglectful property owners were also seen as major contributors to the downtown’s less than favourable image. For example, discussing the link between physical disorder, absentee landlords and downtown rejuvenation, one planner suggested:

There is an importance in terms of property standards, and not just bare bones property standards, you’ve got absentee landlords who basically have forgotten about their properties and just left it to rot, it’s the whole broken window effect there…and that’s the problem in some areas.

Further tarnishing the downtown’s image is the alarmingly high percentage of illegal conversions throughout several pockets of the north end of the City. At the same time, the illegal conversion of commercial properties into rental units demonstrates just how fragile and geographically segregated downtown renewal has been. While it would be misleading to suggest that Hamilton’s planning documents are guided entirely by an order-maintenance logic, how the enforcement of property standards, zoning and nuisance by-laws are prioritized in several high-level City policies echoes the central principles of the broken windows thesis or what one City planning official called the “broken windows syndrome”.

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As discussed above, the link between signs of social and physical and safety in the downtown core was discussed at length by City planners. Given the broader trends found within the urban governance literature this is not necessary unsurprising. Since the publication of Kelling and Wilson’s Broken Windows thesis in the early 1980s, the general proposition that lower level disorder, if left unaddressed, will manifest into more serious forms of disorder has been widely embraced by urban policymakers (Wacquant, 2009; Ranasinghe, 2012). Despite being criticized for lacking empirical validity (see Harcourt, 2005), the general principles that inform the broken windows thesis have led to numerous order-maintenance policing campaigns throughout the globe. Much like how the fear of crime has proven to be an equally powerful force in influencing criminal justice and social policy as actual crime data (see Garland, 2001) urban planning literature suggests that various forms of disorder, whether real or imaginary, can be detrimental to a city’s urban renewal agenda (Helms, 2012). At the same time, what constitutes disorder, its consequences and how it should be addressed are highly contextual, almost always political and often linked to local governments’ broader economic goals (Garnett, 2010). This is particularly relevant to how municipal law enforcement is prioritized within City documents.
Protecting the Future: Municipal Law and Downtown Rejuvenation

In Hamilton, the central principles of broken windows policing have informed the City’s priority-based and proactive enforcement of municipal laws. The relationship between proactive enforcement and economic renewal is most clearly articulated in Hamilton’s Economic Development Strategy. As the document indicates, in the early 2000s longstanding concerns regarding physical and social disorder in the lower City led to the creation of the Downtown Cleanliness and Security Task Force. Comprised of numerous City departments and representatives from the local business community, the taskforce’s goal was to enhance safety and cleanliness by addressing issues of garbage, debris, graffiti and property standards violations. Seeking an unbiased opinion on the issues plaguing the downtown, the City hired a private consulting firm that outlined its recommendations in a report titled, Protecting the Future: a Safety and Security Audit of the Downtown Hamilton Improvement Project Area. Presented to council in 2007, the report emphasized the importance of addressing disorder in the downtown in order help facilitate urban revitalization. As the report suggests:

Safety and Security is the next step in the renewal and revitalization of Downtown Hamilton. While remedial action is still necessary and will always be required, the emphasis now is on being proactive and protecting the future. There are numerous City Departments that are pivotal in continuing the change in direction from being reactive to being proactive. Property standards enforcement though having to respond to complaints must become proactive, and a program should be developed specifically for the Downtown Core.

(Public & Private Security Management 2007 p. 2-3)

While acknowledging the importance of responding to physical disorder through the enforcement of property standards by-laws, the report also encouraged the City to address social disorder. Noting how this might require controversial decisions, the report suggests:
The social dimension of a City is important particularly in the Downtown urban core that is traditionally the heart and soul of any City. Downtown Hamilton is a place from which everything else has been built, and unfortunately over time the centre became hollowed out, abandoned, and an attraction to those less fortunate and able. Dealing with homelessness, street people and panhandlers is a major challenge for all cities. There is no one answer to the issue, but rather the requirement that Social Services and Community Groups working in this area be at the table of Downtown renewal and revitalization, and be full members of the Task Force so that their expertise can be added to the decision making process. Answers are found by inclusion – not exclusion. Some difficult and controversial decisions must be made – such as the relocation of certain community services, decentralization of certain social services, a moratorium on new shelters and facilities to a Downtown with too many shelters in a small geographic area, and a review process for existing shelters and residences based on their impact on the community and associated problems. Some of the solutions will require assistance from senior levels of government who have the responsibility for training and certain assistance programs to get homeless and challenged people into being productive and not a burden to society. This will require political decisions that must be made based on the overall community interest and not just on a limited number of comments.

(Public & Private Security Management 2007 p. 3)

By diverting the responsibility for Hamilton’s broader systemic and poverty-related problems to “senior levels of government”, a majority of the report focuses on short-term solutions based on the enforcement of provincial/municipal laws and other Crime Prevention Through Environmental Design (CPTED) techniques; for example, in order to improve the downtown’s “perception and image” the report recommends:

- The Downtown Core should be designated a priority area with targeted and regular proactive enforcement of property standards.
- Property Standards should be aggressively enforced.
- Property Standards should develop a proactive enforcement program.
- Property Standards Inspectors should be on a rotation basis for the Downtown area to reduce any complaints or perception of undue targeting of a specific business.
- Police and Property Standards Inspectors should respond quickly in a co-ordinated manner to complaints concerning licensed establishments and inform the complainant as to the results.
• Property Standards should be reviewed and updated regularly to include elements concerning “perception” such as a limited time to replace broken windows with windows not just boarding beyond an emergency period.

(Public & Private Security Management 2007 p. 10-20)

In addition to recommending that Hamilton start proactively enforcing property standards by-laws in the downtown core, the report also offered several suggestions as to how the City could address the high percentage of “undesirable populations” in the downtown core. Although the Protecting the Future report did not include any previous statistics on the number of tickets issued to undesirable populations or existing strategies that were being used to address social disorder, it did make several recommendations on how disorderly conduct/populations should be dealt with moving forward.54 These suggestions include:

• Apply the panhandling by-law or the Safe Streets Act in a consistent and ongoing manner targeting aggressive panhandlers.55

• City of Hamilton should explore the option of including reminders to developers that the Hamilton Police Service has police officers who can assist businesses or developers in conducting Crime Prevention Through Environmental Design (CPTED) analysis.

• A moratorium be placed on the opening of new residential or lodging care facilities in Downtown Hamilton. That any new facilities be directed to neighbourhoods and communities outside of Downtown Hamilton.

54 In 2010, Hamilton police launched an initiative called Addressing Crime Trends in our Neighbourhoods (ACTION). Focused on tackling a broad spectrum of crime and low-level disorder in downtown Wards 2 and 3, recent statistics suggests that between May 2010 and March 2014, the 40 officers dedicated to the ACTION team have issued just under 20 000 Provincial Offense Notices and made over 4000 arrests (Hamilton Police Service, 2014). During the same period ACTION officers also conducted 3 350 “building sweeps/premise checks” and completed 18 569 “street checks” (Hamilton Police Service, 2014). In the midst of controversy over “carding” by the Toronto Police Service, in late July the Hamilton Police Service confirmed that “street check” practices are no different from “carding”. In fact, in Hamilton when ACTION officers complete a street check the information that they gather (e.g., name, address and know acquaintances) is entered into a Hamilton police database.

55 The City of Hamilton does not have a standalone panhandling by-law. However, some city documents discuss how the noise by-law (#03-020) could be applied to “busking” or street performances. During my time in the field the noise by-law was not applied to buskers or those engaging in street performances.
• On a 3 or 5 year cycle, municipal permits for existing residential, lodging care facilities, shelters, halfway houses and related community based groups should be reviewed and neighbourhood problems be a deciding factor for continued operations.

(Public & Private Security Management 2007 p. 4-10)

At the time the Protecting the Future report was presented to council, not all of the consultant’s recommendations were adopted; however, the report’s suggestions received endorsement within the City’s Economic Development Strategy. Referencing the Protecting the Future report, the strategy suggests the recommendations “needed to be implemented…safety and cleanliness must be addressed because this affects the other issues such as downtown’s ability to attract new residents, visitors, employers and businesses” (City of Hamilton, Economic Development Strategy, 2010a p. 60). Despite receiving less than full support from City Council, the Protecting the Future report had a significant impact on how municipal law enforcement was prioritized in the downtown. Embracing the report’s recommendations suggesting municipal laws be “regularly and aggressively enforced,” in 2008 Hamilton introduced a new “priority-based approach for by-law enforcement in the City” (City of Hamilton, 2008 p. 30). Hamilton’s priority-based approach sought to proactively enforce a range of municipal laws including those regulating yard maintenance, property standards, business licensing and noise (City of Hamilton, 2008). As the chair of the Economic Development and Planning Committee suggested: “the community needs to know it’s not business as usual when it comes to by-law enforcement…I fully endorse the new get tough approach to municipal law enforcement, especially when it comes to repeat offenders” (City of Hamilton, 2008 p. 30). Coinciding with the roll-out of the City’s proactive program, Mayor Fred Eisenberger declared how “focused and proactive by-law enforcement will enhance efficiency and the City's ability to maintain community standards…in addition, safety and aesthetics in our community will be improved” (City of Hamilton, 2008 p.
Hamilton’s commitment to proactive enforcement was intensified in the spring of 2010 when the City launched an 18-month pilot project called “Project Compliance”.

Focusing on Wards 1 through 8, the goal of the $600,000 Project Compliance was to investigate the need for a licensing program for rental housing units. Prioritizing the enforcement of the property standards (#10-221) and yard maintenance by-laws (#10-118), Project Compliance officers proactively inspected thousands of semi-detached family homes, student rentals and several housing units owned and operated by the City of Hamilton (City of Hamilton, 2010b). As summarized in Table 5.6, between the summer of 2010 and fall of 2012, officers proactively issued 956 Compliance Orders for property standards violations and 2119 Orders in relation to the yard maintenance by-law (City of Hamilton, 2012b). Despite Project Compliance’s original focus on rental properties, close to half of the Orders issued by officers during proactive neighborhood enforcement were given to the owners of non-rental properties.

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56 Ethnographic data was collected after Project Compliance.

57 According to City documents, $450,000, covered the cost of hiring six temporary part-time municipal law officers and $90,000 was used to hire a temporary full-time clerk. The remaining $58,000 was allocated towards the operating costs of three vehicles (see City of Hamilton, 2010b).

58 Project Compliance officers did not investigate complaint-based municipal law related issues. All of the data presented in Table 5.5, 5.6 and 5.7 resulted from proactive enforcement blitzes. Statistics are in Tables 5.5, 5.6 and 5.7 are drawn from a 18th month period between the summer of 2010 and the fall of 2012.

59 Now an important part of Hamilton’s proactive efforts, while summer students cannot press charges, they can issue an “Order to Comply”, commonly referred to by officials as “Orders,” outline what by-law a property is violating and the timeframe an owner has to bring his/her property into compliance (City of Hamilton, 2009b).
Table 5.5: Project Compliance Enforcement Statistics

<table>
<thead>
<tr>
<th>Orders Issued</th>
<th>Rental</th>
<th>% of Total</th>
<th>Non-Rental</th>
<th>% of Total</th>
<th>Total</th>
<th>Total %</th>
</tr>
</thead>
<tbody>
<tr>
<td>Property Standard Order Issued</td>
<td>551</td>
<td>57.6%</td>
<td>405</td>
<td>42.3%</td>
<td>956</td>
<td>100%</td>
</tr>
<tr>
<td>Yard Maintenance Order Issued</td>
<td>1 093</td>
<td>51.5%</td>
<td>1 026</td>
<td>48.5%</td>
<td>2 119</td>
<td>100%</td>
</tr>
<tr>
<td>Total</td>
<td>1 644</td>
<td>53.4%</td>
<td>1 431</td>
<td>46.6%</td>
<td>3 075</td>
<td>100%</td>
</tr>
</tbody>
</table>

(Source: City of Hamilton, 2012b)

Although roughly half of the Orders issued during Project Compliance were given to non-rental properties, rental properties had on average a higher number of deficiencies. In fact, of the 551 rental properties inspected, a total of 2349 deficiencies were identified in comparison to the 1280 documented in the 405 non-rental properties visited during the inspection blitzes. While section 435 and 437 of the Municipal Act allow municipal law enforcement officers access to the interior of properties, a significant portion of Project Compliance inspections targeted exterior features. For example, as highlighted in Table 5.6, of the 3629 deficiencies identified, 778 related to exterior structure and 614 involved issues with windows/doors. Furthermore, 320 of the deficiencies related to roofing, 356 to stairways, balconies/porches and 173 to exterior walls (City of Hamilton, 2012b). As will be discussed below, this focus on improving the exterior structure/fixtures of properties has continued as part of Hamilton’s permanent commitment to proactive enforcement.
Table 5.6: Property Standards Enforcement by Rental and Non Rental Deficiencies

<table>
<thead>
<tr>
<th>Property Standards By-Law Deficiencies</th>
<th>Rental Property Deficiencies</th>
<th>Non-Rental Property Deficiencies</th>
<th>Total Combined Deficiencies</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bathroom/Shower</td>
<td>17</td>
<td>0</td>
<td>17</td>
</tr>
<tr>
<td>Door/Windows</td>
<td>528</td>
<td>86</td>
<td>614</td>
</tr>
<tr>
<td>Electric Service</td>
<td>70</td>
<td>20</td>
<td>90</td>
</tr>
<tr>
<td>Elevators</td>
<td>2</td>
<td>0</td>
<td>2</td>
</tr>
<tr>
<td>Exterior – Structures</td>
<td>430</td>
<td>348</td>
<td>778</td>
</tr>
<tr>
<td>Exterior Walls/Roof</td>
<td>78</td>
<td>95</td>
<td>173</td>
</tr>
<tr>
<td>Fences/Barriers</td>
<td>26</td>
<td>18</td>
<td>44</td>
</tr>
<tr>
<td>Floors/Ceilings/Walls</td>
<td>235</td>
<td>20</td>
<td>255</td>
</tr>
<tr>
<td>Foundations/Basements</td>
<td>34</td>
<td>15</td>
<td>49</td>
</tr>
<tr>
<td>Garages</td>
<td>2</td>
<td>1</td>
<td>3</td>
</tr>
<tr>
<td>General Standards</td>
<td>15</td>
<td>5</td>
<td>20</td>
</tr>
<tr>
<td>Guards/Hand Rails</td>
<td>88</td>
<td>63</td>
<td>151</td>
</tr>
<tr>
<td>Heating System</td>
<td>19</td>
<td>2</td>
<td>21</td>
</tr>
<tr>
<td>Kitchens</td>
<td>26</td>
<td>1</td>
<td>27</td>
</tr>
<tr>
<td>Lighting</td>
<td>92</td>
<td>32</td>
<td>124</td>
</tr>
<tr>
<td>Pests</td>
<td>79</td>
<td>5</td>
<td>84</td>
</tr>
<tr>
<td>Plumbing</td>
<td>64</td>
<td>2</td>
<td>66</td>
</tr>
<tr>
<td>Roof</td>
<td>160</td>
<td>160</td>
<td>320</td>
</tr>
<tr>
<td>Sewage</td>
<td>25</td>
<td>35</td>
<td>60</td>
</tr>
<tr>
<td>Stairways/Balconies/Porch</td>
<td>148</td>
<td>208</td>
<td>356</td>
</tr>
<tr>
<td>Storm Water</td>
<td>106</td>
<td>80</td>
<td>186</td>
</tr>
<tr>
<td>Structural Components</td>
<td>15</td>
<td>13</td>
<td>28</td>
</tr>
<tr>
<td>Structures</td>
<td>11</td>
<td>13</td>
<td>24</td>
</tr>
<tr>
<td>Treads and Risers</td>
<td>38</td>
<td>24</td>
<td>62</td>
</tr>
<tr>
<td>Vacant Buildings</td>
<td>5</td>
<td>2</td>
<td>7</td>
</tr>
<tr>
<td>Ventilation</td>
<td>20</td>
<td>11</td>
<td>31</td>
</tr>
<tr>
<td>Walkways/Parking Lots</td>
<td>16</td>
<td>21</td>
<td>37</td>
</tr>
<tr>
<td><strong>Total Number of Deficiencies</strong></td>
<td><strong>2 349</strong></td>
<td><strong>1 280</strong></td>
<td><strong>3 629</strong></td>
</tr>
</tbody>
</table>

(Source: City of Hamilton, 2012b)

Statistics on the enforcement of the yard maintenance by-law (see Table 5.7) demonstrates similar trends in terms of the types of properties visited by officers during Project Compliance. For example, of the 2119 Yard Maintenance Orders issued, 52% were given to rental properties while 48% were issued to non-rentals. Similar to the proactive enforcement observed during the
Orders were issued in relation to garbage, debris, long grass and weeds.

<table>
<thead>
<tr>
<th>Yard Maintenance</th>
<th># of Rental Property Orders issued</th>
<th>% of Total</th>
<th># of Non-Rental Property Orders issued</th>
<th>% of Total</th>
<th>Total Combined Orders</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dumping</td>
<td>2</td>
<td>67%</td>
<td>1</td>
<td>33%</td>
<td>3</td>
</tr>
<tr>
<td>Garbage/Debris</td>
<td>651</td>
<td>51%</td>
<td>623</td>
<td>49%</td>
<td>1 274</td>
</tr>
<tr>
<td>Graffiti</td>
<td>52</td>
<td>47%</td>
<td>58</td>
<td>53%</td>
<td>110</td>
</tr>
<tr>
<td>Inoperable Vehicles</td>
<td>23</td>
<td>40%</td>
<td>35</td>
<td>60%</td>
<td>58</td>
</tr>
<tr>
<td>Long Grass/Weeds</td>
<td>185</td>
<td>55%</td>
<td>149</td>
<td>45%</td>
<td>334</td>
</tr>
<tr>
<td>Long Grass/Weeds and Debris</td>
<td>177</td>
<td>53%</td>
<td>156</td>
<td>47%</td>
<td>333</td>
</tr>
<tr>
<td>Snow</td>
<td>3</td>
<td>43%</td>
<td>4</td>
<td>57%</td>
<td>7</td>
</tr>
<tr>
<td><strong>Total Orders Issued</strong></td>
<td><strong>1 093</strong></td>
<td><strong>52%</strong></td>
<td><strong>1 026</strong></td>
<td><strong>48%</strong></td>
<td><strong>2 119</strong></td>
</tr>
</tbody>
</table>

(Source: City of Hamilton, 2012b)

During the 18-month proactive enforcement blitz, municipal law officers visited thousands of homes, apartment buildings and high-rises issuing Compliance Orders to both rental and non-rental properties. Appeasing local advocacy groups and the City’s property owners association, council decided to hold off on the implementation of a licensing program. However, the thousands of municipal law violations uncovered during the 18-month campaign influenced City council’s decision to implement a permanent proactive approach. In order to continue a proactive and priority-based approach to the enforcement of property standards and yard maintenance laws, Hamilton created a dedicated division whose mandate was proactive enforcement. While representing a very small fraction of Hamilton’s municipal law enforcement division, proactive officers actively seek-out property standards and yard maintenance violations throughout the downtown and several “high-priority” areas above the mountain. As will be
discussed below, interviews with City planners and municipal law officials reinforced the link between proactive municipal law enforcement and Hamilton’s broader economic goals.

**Prioritizing Proactive Enforcement: City Planners and Municipal Law Officials**

In order to establish a more comprehensive understanding of the logic informing proactive enforcement, City planners and municipal law officials were asked to reflect on the role proactive municipal law enforcement plays in relation to Hamilton’s broader economic and strategic planning goals. Similar to what was outlined in City documents, several City planning officials discussed the importance of improving the physical conditions and appeal of the downtown. As one planner explained, “the type of enforcement [proactive] you are discussing is very significant for us [the City of Hamilton] …maintaining and ensuring property standards is a must if we want to create that clean, safe and healthy environment if we want people to live…people to shop in the downtown”. Several planning officials also discussed the link between proactive enforcement in addressing physical disorder and instilling a sense of pride in property owners. For example, according to one planner:

> When I think about proactive enforcement…I think about them [municipal law enforcement] going in and fixing or addressing that broken window syndrome, they're addressing those issues… I mean they are our enforcement component…in a way it’s also about making sure that people take pride in their property.

Encouraging residents and businesses to take an active role in improving their properties was a reoccurring theme during interviews with City planning officials. One official in particular emphasized the significance of proactive opposed to reactive enforcement when it came to addressing physical disorder. For example, when asked about whether proactive municipal law enforcement contributed to the City’s broader economic agenda for the downtown, one official suggested:
Everyone has a role to play as homeowners, as investors, as businesses… certainly by-law plays a very important role and I am pleased to see that so much of it has become proactive, and you’re seeing the changes… they [proactive enforcement officers] were criticized in the early days…people used to ask ‘how come I’ve got to make this change, that change…it’s been like that forever’…and we [the City] say ‘It’s because we used to work on a reactive basis and now we are proactive.’

While a majority of planning officials who participated in this study saw proactive enforcement as playing a pivotal role in the City’s rejuvenation efforts, several discussed how some residents and businesses might not be able to fund repairs identified through proactive enforcement. As one planner reflected how:

We [the City of Hamilton] do have to be cognizant that some people do not have the financial capacity… I mean I think as long as municipal law can go in and see that someone is trying to address these issues and that they are not ignoring it…I know that we work with municipal law because people are for one reason or another applying for our financial incentives.

This more sympathetic approach when dealing with properties was not shared by all. For example, it was suggested by a planner that:

There are some people that won’t do stuff on their own. So we have carrots, financial incentives and then we have sticks, which is by-law enforcement and folks, which would you prefer? You are going to get one or the other and I think being a rational person you would prefer to have the carrot… But I’m quite prepared to yield stick, which is our by-law enforcement.

While most planners viewed proactive municipal law enforcement as an important component of Hamilton’s broader economic renewal agenda, one official in particular discussed how proactive enforcement could be leveraged to assist those living in sub-standard housing. As the planner explained:

I think proactive enforcement opposed to simply reactive enforcement is a good thing, especially when it comes to property standards. But at the same time I think there needs to be a caveat, given the shortage of suitable rental housing in the City, we cannot simply shut these places down… So overall, I think the City has a significant role…a necessary
role… I think that there are positives through proactive enforcement but we need to be aware and have strategies, we need to address the potential outcomes of the loss of units.

Similar to City planning officials, some municipal law officers saw the proactive enforcement of municipal laws sharing a close relationship with the City’s broader economic goals. For example, asked about the link between proactive enforcement and renewal in the downtown core, one municipal law official suggested how:

I think it's [proactive enforcement] huge for the downtown core, we want to expose where we have problems you know? The only way we can fix them is if we know where they are. When we do proactive we get action…we identified a lot of graffiti that had been cleaned up in the core and everyone knows that graffiti brings that crime element that fear elements... So we [the City of Hamilton] have got to get the graffiti cleaned up… fix the sidewalks and property standards.

Similarly, a different municipal law discussed the importance of improving the downtown’s aesthetics and drawing in new business by working with downtown improvement groups (e.g., the Downtown Safety and Security Taskforce). This particular municipal law official also noted the challenges of maintaining compliance in certain parts of the downtown. According to the municipal law official:

We work with the downtown improvement groups, trying to clean things up in the downtown… You know we’ve got events coming in the town and we want people to come. We work hard to eliminate things like graffiti and work with the improvement groups to get businesses into the downtown by offering grants... I think the by-law has made a difference in the downtown, we want things to be aesthetically appealing, we want things to look nice…when you’re driving down Barton Street or Cannon Street you want things to look nice. You can get it there and sometimes it only lasts for a few weeks but I guess you can get there again [referring to compliance].

Although the role proactive enforcement played in improving the aesthetic appeal of the downtown was a recurring theme during interviews with municipal law officials, so too was the issue of safety. When asked how the proactive enforcement of municipal laws contributed to Hamilton’s economic and strategic planning goals, several municipal law officials quickly
diverted their responses towards the importance of maintaining safety, specifically in the downtown core. As one municipal law official discussed:

It is always going to come back to public safety and the conditions that people are living in as it relates to proactive. With any of the by-laws, it’s public safety first…once you get past the public safety side, it becomes about appearances. So originally, when the sign by-law was redone, it was all about the mobile signs on Upper James and it was just littered with them, right? And that was just an ugly entrance into the City…that became a City appearance issue and by changing that… that has helped what it looks like. But ya, it always starts with the public safety issue.

Several municipal law officials discussed how proactive enforcement could be utilized as a method of spreading more awareness about certain municipal laws. Reflecting on the City’s Project Compliance program, one municipal law official outlined how:

The one thing that we found with Project Compliance was that many people living in high-rise apartments did not realize they had to tolerate these types of poor living conditions. One of the big benefits of the proactive enforcement blitzes was to get into neighborhoods and educate various groups. This is where I see the value in proactive enforcement, the education piece going to the different Wards throughout the City and telling people about the by-laws… And once you educate them about the by-laws, let them know here we are and this is what we do... then people realized… ‘Hey, the City has a by-law for that… I really don’t have to live in this bug infested…mice infested place?’

While some City planners and municipal law officials saw a direct link between proactive enforcement and the City’s broader economic goals, others saw the usefulness of proactive enforcement is a slightly different light. To a certain extent, the divergent opinions shared by City planners and municipal law officials on the role proactive enforcement plays in relation to the priorities set out in City planning documents serves as a useful starting point when attempting to explain this study’s central thesis.
5.4. Conclusions: A Final Word on the Divided City

This Chapter has discussed how the City of Hamilton, in an attempt to re-brand itself as a “world-class” City has endorsed a neoliberal economic development agenda aimed at drawing in outside investment and attracting members of the creative class. Drawing on content found in City documents, consultant’s recommendations and data from interviews with planners and municipal law officials, this Chapter has also established the link between municipal law enforcement and the City’s broader economic objectives. With that being said, as this Chapter has discussed, Hamilton’s industrial heritage has not only shaped the City’s reputation, but also influenced employment trends and development patterns. In more ways than one, Hamilton’s role as a leader in industrial manufacturing formed both the social character and physical geography of the City. However, Hamilton is in the midst of significant economic change. Although deindustrialization has been physically and economically detrimental to the downtown core, the recent arrival of new creative industries, upscale condominium developments and supporting amenities is beginning to draw interest back into several neglected parts of the City. Even as housing prices continue to increase, Hamilton remains relatively affordable in comparison to neighbouring cities; however, the City remains deeply divided. Although the socio-economic composition of Hamilton’s downtown neighbourhoods is changing as the City gentrifies, a significant portion of residents still live in poverty. In fact, due to the significant decrease in middle-class families living in Hamilton over the last three decades, the City has some of the highest rates of income disparity in Canada (Harris et al., 2015).

Related to what is taking place in Hamilton, globalization and growing support for neoliberal minded policymaking has intensified the competitiveness of many local governments. As critics of entrepreneurial planning suggest, within the competitive, neoliberalized economy,
local government’s ability to attract long-term investors and short-term consumers depends greatly on perceptions of safety (see Harvey, 1989). With this in mind, as cities continue to experience gentrification and as the attractiveness of neighbourhoods is increasingly dependent on economic, moral and aesthetic appeal, local governments have become less tolerant of both social and physical disorder (Blomley, 2004). As critical scholars note, this has led to the intensification of order maintenance policing and the use of municipal by-laws and ordinances to regulate disorder (see Wacquant, 2009; Sylvestre, 2010; O’Grady, 2013). Closely related to the decline of the welfare state, neoliberal policymaking has also invigorated the importance of responsible forms of behaviour that often share a close link to the overall objectives of government (Garland, 2001). Neoliberal ideals have also heightened intolerance for any disorderly behaviour that interferes with local government’s ability to compete within the economy. In this regard, some of neoliberalism’s core principles appear throughout Hamilton’s strategic planning documents and were supported by some City planning officials.

For example, a significant portion of the City’s Economic Development Strategy (2010a), focuses on transforming Hamilton into a “world-class” competitive City. The significance of ridding itself of the Steel-Town reputation and attracting the much sought after creative class has come to dominate much of Hamilton’s long-term visioning. A similar sentiment was shared by planning officers who discuss the significance of attracting knowledge-based, creative industries in relation to Hamilton’s rejuvenation of the downtown. In addition, as discussed within Hamilton’s planning documents and reinforced by City planning officials, the City has attempted to attract more middle and upper class consumers into the downtown core by marketing Hamilton’s culture and “unique retail experiences”. This effort has been aided by changes to zoning laws that expand industrial land-use designation to incorporate creative activities such as
performance and visual arts. This flexible use of zoning law is in sharp contrast to the rigidly enforced minimum separation laws that govern RCF’s, lodging homes and shelters. In addition, despite the City’s overburdened residential tax base, in order to encourage free-market competition and make Hamilton’s lower City more attractive to outside investment, a significant portion of the downtown has been exempt from or at least subjected to reduced development fees. In an attempt to improve the aesthetic appeal of the City, particularly in the downtown, since 2008 Hamilton has endorsed a priority-based, “get-tough” approach to enforcing municipal laws that regulate property standards, yard maintenance, commercial licensing and noise. While the City’s Project Compliance was framed as a way to investigate safety concerns in regards to rental housing in the downtown, the proactive enforcement of property standards and yard maintenance by-laws cannot be viewed as entirely removed from Hamilton’s broader economic redevelopment agenda. Indeed, only half of the Orders to Comply issued throughout the two-year proactive blitz were given to rental properties. Endorsed in Hamilton’s Economic Development Strategy (2010a) and several City funded studies, the importance of addressing physical and social disorder through the enforcement of municipal laws in relation to Hamilton’s broader economic goals was also discussed at length by several City planners and municipal law officials. Importantly, the connection—or more accurately disconnect—between the enforcement of municipal law and Hamilton’s broader downtown urban renewal agenda is a key theme in this dissertation’s central argument. As highlighted above, while most planners and municipal law officials viewed proactive enforcement as an important part of the City’s redevelopment efforts, there were some planners and municipal law officials who discussed how proactive enforcement could be leveraged to maintain safety and educate residents. As the following Chapter will discuss, the City of Hamilton does proactively enforce municipal laws. However, the logic
informing this type of enforcement is most often shaped by attempts to ensure safety and shares a less direct relationship to the City’s broader economic goals.
Chapter 6.0: The Politics of Proactive By-Law Enforcement

Licensing Pornography

Sitting in the parking lot of one of Hamilton’s adult novelty stores, the licensing officer I was accompanying explained the difference between a “Class A” and Class B” adult film store. Sifting through a 350-page licensing by-law, the officer explained how Class A retailers were allowed to display over 500 adult films. On the other hand, Class B retailers’ stock of adult films could not exceed 500. In addition, stores that sold adult films needed ensure at least 20% of the films displayed were of a “non-adult nature”. Although stopping at the novelty store had not been planned in advance, the officer mentioned how these types of stops were a good way to ensure compliance.

Entering the store around 11 AM, the sight of a uniformed officer appeared to startle the lone employee. After a brief introduction, the officer explained how he was doing a random inspection that would not take up too much of the employee’s time. The first order of business was to inspect the store’s license. Satisfied the store’s “Class A” license had been recently renewed, the officer explained to the store clerk he now needed to count the number of adult films displayed in the rear of the store. Enlisting my assistance, the officer requested that I count the number of films on one side of the display rack while he counted the other. Interrupting what could best be described as 10 minutes of awkward silence, the officer announced the total number of films located on his side of the display rack. Concurring that I had counted roughly the same number of films and that the total satisfied the guidelines outlined in the store’s license, we moved on to the non-adult section. While a Class A license allowed the store to carry a large number of adult films, the officer explained how all stores were required to carry at least a small
section of non-adult films. While the adult films, organized by sexual fetish and preference were meticulously displayed, the store’s selection of non-adult films was housed on an old wooden shelf. Unlike the X-rated adult DVD section, the dust-covered non-adult video section contained only VHS films. Content the store was meeting the conditions outlined on the license, the officer thanked the clerk and left the store.

Back in the municipal law vehicle, the officer reiterated the importance of engaging in random licensing checks, explaining that although he was not a designated “proactive officer”, this type of enforcement played a significant role keeping businesses “in-check”. Similar to conversations with other officers, the officer discussed how there was some debate within the municipal law department over whether officers who were not part of the “proactive team” should be actively engaging in the type of enforcement I had just witnessed.60

* * *

Drawing on ethnographic data, this Chapter will offer a detailed street-level account of proactive municipal law enforcement.61 Given the recommendations outlined in the Protecting the Future report, Hamilton’s commitment to proactive enforcement and the way such enforcement was discussed during interviews with planners and municipal law officials, this Chapter will seek to explore the extent to which street-level proactive enforcement contributes to Hamilton’s broader economic planning goals. As will be discussed in what follows, while a small amount of proactive enforcement is shaped by broader City policies aimed at improving the aesthetic appeal of the downtown, a majority of proactive enforcement is carried out in

60 In order to ensure confidentiality and protect the identity of research participants, the officers described in this chapter have been assigned random genders.

61 Data from interviews with municipal law officials will also be discussed in parts of this Chapter.
response to compliance issues which share a less direct link to the City’s broader economic goals. Likewise, as this Chapter’s opening narrative has highlighted, street-level proactive enforcement is influenced by micro-level factors including more individualized attempts on the behalf of officers to maintain compliance within certain industries. As the events described above highlight, during my time in the field, there was also debate amongst frontline officers over the extent to which officers without a “proactive” designation should be actively seeking municipal law violations. This Chapter will be organized as follows.

This Chapter will first provide a brief discussion of how proactive enforcement is prioritized at a departmental level. Next, this Chapter will describe the street-level proactive enforcement of aesthetically-focused property standards (e.g., by-laws regulating exterior and interior fixtures), lawn maintenance and waste management by-laws (#09-067). Although representing only a small portion of proactive enforcement, this section will review how officers seek to minimize low-level physical disorder within specific areas of the downtown using a range of compliance-seeking techniques. Sharing a less direct relationship to the City’s broader economic goals, the second section of this Chapter will describe how Hamilton’s licensing by-law is proactively enforced to regulate non-compliance and social disorder. This section will review how proactive enforcement is used to regulate taxis, nuisances and the nighttime entertainment industry. Based on the ethnographic accounts offered throughout the Chapter, the final section will discuss how political and bureaucratic factors place limitations on the level of proactive enforcement of municipal laws.
6.1: Addressing Physical Disorder through Proactive Enforcement

As discussed in the previous Chapter, in 2008, Hamilton announced its new “priority-based approach for by-law enforcement in the City” which included a get-tough approach with respect to yard maintenance, property standards, business licensing, sign enforcement and noise (City of Hamilton, 2008 p. 30). Although recognized as playing an important role in Hamilton’s broader rejuvenation plans for the downtown and linked to ensuring safety within the City’s rental market, the proactive enforcement of property standards, yard maintenance and other by-laws targeting physical disorder represent a relatively small portion of municipal law-related work. In fact, despite the views held by some planners, in comparison to the 40-50 officers who specialize in reactive or complaint-based enforcement, during my time in the field, the City’s dedicated proactive team was comprised of no more than 4-5 full-time officers. At the same time, officers with the proactive designation are not the only officers who engage in this type of enforcement. Although there was some debate over the extent to which officers not designated “proactive officers” should be actively seeking municipal law violations, it is worth noting that proactive enforcement is carried out by a range of different officers. In some cases, proactive enforcement occurred as a result of reactive investigations. For example, on numerous occasions during an investigation at one property, officers would stumble upon the same or sometimes worse deficiencies at a neighbouring property. This was particularly true in cases where officers were reacting to complaints about property standards, long grass, weeds and excessive debris. Several different officers explained the dilemma in such situations: as one

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62 As previously discussed, the request for statistical data on the amount of municipal law complaints was denied by city staff. In addition, attempts to quantify the specific amount of investigations I witnessed while in the field were difficult given the nature of some complaints. For example, when engaging in proactive enforcement, while attending a property it was not uncommon for others in the neighbourhood to stop and ask officers about property standards issues on their own property. Sometimes without even actually stepping foot on a neighbour's property officer would point out issues they needed to address.
officer noted, “how can I expect property A to comply if both the neighbours have violations, what am I supposed to do? Just turn my back and pretend I don’t see what’s going on”? While in some cases proactive enforcement resulted from reactive investigations, in other cases “proactive blitzes” where carried out by officers not part of the dedicated proactive team. In these cases, supervisors and managers would instruct officers who normally do reactive enforcement to proactively enforce certain laws. This type of enforcement sought to identify very specific violations (e.g., garbage, long-grass, weeds and yard maintenance issues) in very specific areas or “hot spots”. As will be discussed in the next section of this Chapter, this was also the case in the proactive enforcement of licensing and nuisance by-laws.

**Dedicated Proactive Enforcement**

The City’s small group of dedicated proactive officers are primarily mandated to enforce the property standards by-law and yard maintenance by-law. Instead of working individually, proactive officers often work as a group, targeting neighborhoods located in Wards 1 – 8, the area originally targeted by Project Compliance. While the proactive team would work through neighbourhoods on a rotational basis, this type of enforcement is also influenced by complaints received by the City. For example, proactive enforcement is often shaped by priorities set out by City council and potential problems identified by individual Councillors. As one municipal law official explained: “we trust council to identify the issues in their wards…not everyone is going to come to us directly…often times people will complain about stuff happening in their neighbourhoods to the Councillor…the Councillor tells us and we try to address the issue”. Which neighbourhoods are targeted by proactive enforcement is also shaped by complaints made directly to the municipal law department. A different municipal law official noted that, “times do occur when we receive a lot of complaints about an issue in a neighbourhood…sometimes it’s
about a specific property or a specific block…from our perspective it is more effective to proactively get out there and enforce or educate people about the by-laws instead of investigating on a complaint by complaint basis”. An “educational” approach was often used by the City as a way of addressing widespread compliance issues within certain neighbourhoods. Officers would then complete follow-up inspections in the same neighborhood and issue Orders where necessary. In other cases, the City would distribute pamphlets as a way of deterring certain types of seasonal violations. For example, prior to the winter months Hamilton distributes literature discussing the importance of keeping sidewalks free from snow and the subsequent fines for failing to do so. Before moving on, it should be noted that Hamilton’s proactive municipal law enforcement initiative has been criticized.

During my time in the field, the City’s proactive approach to municipal law enforcement was criticized in the media on several occasions. For example, several Ward 3 residents were infuriated to have received Compliance Orders in the weeks leading up to the grand opening of Hamilton’s new football stadium, Tim Horton’s Field. The media ran similar stories in the summer of 2015, reporting how residents had again received Compliance Orders to clean up their properties just days before several Pan Am games events were to be held at the stadium. This time the stories highlighted the displeasure amongst residents that Compliance Orders listed the financial penalties they could incur including fees added to their municipal taxes and a maximum fine of $50 000 if they failed to comply with the yard maintenance by-law (CHCH News, 2015). While on occasion officers would add “fees for inspection” ranging from $134 for the first additional visit after the follow-up inspection and $261 for any subsequent visits, these cases were rare and most often occurred when a property had a history of non-compliance or repeat violations.
At the street-level, proactive enforcement of the property standards and yard maintenance by-laws followed a rather straightforward protocol. Once a certain Ward or neighbourhood is identified as in need of a proactive blitz, officers would spend several days or sometimes a week seeking violations.\textsuperscript{63} For the proactive enforcement team this often required officers to do a general walk-through of each property on a given block or within a designated area. As noted above, a majority of proactive enforcement focuses on the exterior features. While parts of the property standards by-law regulating internal fixtures are regularly enforced, this type of enforcement is usually a result of a reactive investigation. Not unlike past studies on municipal law (see Proudfoot and McCann, 2008; Valverde, 2012) enforcing these local laws requires officers to exercise a great deal of discretion. The broad scope of the property standards by-law sometimes further complicates this decision. As one officer involved in proactive enforcement explained:

\begin{quote}
The challenge for us [the proactive officers] is that every house in the City has a violation if we look close enough…seriously, your house has them, [a property standards violation] my house has them…so you see our dilemma, if we inspect a property and list bunch of stuff on an Order it better be the issues that need fixing the most.
\end{quote}

This is not to suggest all stipulations outlined in the 26-page property standards or 13-page yard maintenance by-law are entirely subjective. In fact, the property standards by-law is very specific about the exterior fixtures, the height of fences and the size of some interior rooms. Likewise, the yard maintenance by-law clearly articulates the maximum height for all types of yard vegetation. In this regard, the challenge for officers is often deciding what issues need to be addressed the most. This decision is often influenced by the other properties in the

\textsuperscript{63} Proactive enforcement blitzes are carried out on a rotational basis throughout Wards 1 to 8. On other occasions, when the city receives ongoing complaints about a specific issue within a certain neighbourhood, a proactive enforcement blitz is sometimes initiated. Officers receive this direction from supervisors and management.
neighborhood. A proactive inspection of a property located in the City’s east end serves as a good example.

_In the Shadows of Industry_

Situated in close proximity to U.S. Steel, the officer estimated the house was probably built in the 1950s. Walking across the front lawn, the officer went on to explain how many of the houses on this street had literally sat unchanged since the day they were constructed. Pointing towards the neighbouring property, the officer noted how a few of these places might even have some of the original shingles on the roof.

Using his digital camera, the officer took several pictures of the front of the house. As a standard procedure in most investigations, pictures allow officers to keep record of potential violations and are helpful in documenting progress in cases where several steps are needed to gain compliance. As several different officers explained, the flipside of taking photos is that it also starts a chain of evidence that could be used in the case that a formal charge was pursued.

Stepping onto the porch of the two-story home, the officer proceeded to take pictures of the assortment of garbage, empty boxes, beer bottles and newspapers pilled at the far end of the porch. Looking up at the wooden roof of the covered porch the officer noted how the faded and chipped paint was “probably the original”. As we continued to walk the perimeter of the house, the officer noted a handful of property standards issues. In addition to several cracked windows, one of which had been temporarily fixed with cardboard and duct tape, the weather proofing preventing rainwater from entering the basement was almost entirely gone. Pointing to the visible gap between the driveway and the foundation of the house, the officer noted how the rain from the last couple of days most likely made its way into the basement. A brief walkthrough of
the backyard revealed similar issues. Another cracked window, a missing storm door and more garbage. Walking back through the side gate where we had entered, we continued to the other side of the house dodging several kids’ toys, a small bicycle and more garbage.

Back inside the City vehicle, the officer spent several minutes writing some general notes about the inspection. Retrieving a Compliance Order from the backseat, the officer discussed how he were going to request that the owner/occupant first clean up some of the garbage on the front porch, in the backyard and along the side of the property. The officer went on to explain how once the Order was issued, they would return to the house and talk to the owner about the other property standards issues. Acknowledging the multiple deficiencies with the property, the officer explained how in this case it would probably be best to try to work with the property owner to address some of the issues over time. As the officer noted, the street we were on had several properties with similar issues; however, removing the garbage should be an easy fix. Just as the officer finished signing the Order, a standard procedure on all Orders, a light rain began to hit the windshield of the vehicle. Instructing me to stay inside, the officer quickly ran up the stairs onto the porch and placed the Order in the front mailbox, ensuring a portion of the bright yellow order was visible. Sprinting back to the car, the skies, once again, opened up.

*   *   *

As this example demonstrates, officers exercise a great deal of discretion when proactively enforcing the property standards and yard maintenance by-laws. Similar to what Proudfoot and McCann’s (2008) found in their study of municipal law inspectors in Vancouver, the types and total number of deficiencies listed on a Compliance Order was influenced by the conditions of the neighbouring properties. As will be discussed in the following Chapter, the same cannot be
said for reactive or complaint-based enforcement. For example, if the inspection described above was reactive and if the complainant had noted concerns with the broken windows, the officer would most likely have noted these deficiencies on the Compliance Order. Issuing an Order to a property also means follow-up work for the officer. As one officer explained:

> These Orders are not just one-and-done deals…Let’s say I issue 10 Orders in one day…out of those 10 properties at least a handful of people will contact me to either say they addressed the issue or question why they got the order in the first place….In addition, every time we issue an Order we also have to do a follow-up to make sure the person fixed the problem…I don’t mind doing the follow-up and talking to the residents you know…it just takes time.

Depending on the type of violation, in some cases compliance issues were addressed by speaking with the property’s owner or occupant. As several officers involved in proactive enforcement explained, a big part of their job is educating people on Hamilton’s by-laws. For example, as part of the City’s zoning by-law, any single-family, two-family or three-family dwelling constructed prior to December 14th, 1971 must maintain at least 50% green space on the front lawn of the property. As section 14(b) of the zoning by-law (#6593) suggests, “not less than 50% of the gross area of the front yard shall be used for a landscaped area, excluding concrete, asphalt, gravel, pavers or other similar materials”. As one officer explained, the challenge in enforcing the “Green Space By-law” is that in some neighbourhoods almost every property is in violation. While seldom enforced, the City did proactively distribute a letter throughout the downtown neighbourhoods which are most affected by the green space requirement. As one officer explained, this type of approach goes a long way in preventing violations.

This type of educational approach was often utilized even when enforcing less obscure laws. As one officer who had worked as a part of the proactive team explained, people are often unaware of the by-laws. During a lengthy chat at a local coffee shop, the officer recalled several
occasions where proactive enforcement blitzes snowballed into front yard discussions with small
groups of property owners seeking clarification about the property standards and yard
maintenance by-laws. On this day in particular, the officer explained how they issued very few
Compliance Orders as many people were addressing yard maintenance issues on the spot. As he
put it, “compliance is compliance…if they [the property owners] want to address the issue while
I am in the neighbourhood…that is fine with me”. In this regard, it is important to note that the
total number of Orders issued over a given period may not be a true representation of the total
amount of deficiencies identified/addressed. As the following narrative suggests, a similar
approach was employed by an officer taking part in a one-day proactive blitz in one of the City’s
“problematic neighborhoods” surrounding McMaster University. Unlike the proactive
enforcement described above, this enforcement blitz was strategic and targeted a very specific
area of the City. As this narrative demonstrates, obtaining compliance is often accomplished
through a range of different techniques, not all of which result in officers issuing Compliance
Orders.

**Targeted Enforcement Blitzes**

*Taking out the Trash*

While driving through Westdale, the area surrounding McMaster University, the officer I was
accompanying explained to me how the proactive enforcement model had been beneficial in
addressing the yard maintenance and property standards issues that had long plagued the “mixed
neighbourhood”. As the officer went on to explain, Westdale was home to a diverse mix of
nicely “finished Victorian homes” and places “chopped up” into student rentals. While the
officer’s primary focus was proactively enforcing the yard maintenance by-law, he went on to
explain how landlords often avoided potential zoning violations by having groups of students sign a single lease. As the officer explained, because of shared common areas, cooking facilities and entrances, groups of students were considered families, thus meeting the residential zoning requirements of the area.

On this particular day, an unseasonably warm morning in late-April, the proactive blitz of the City’s yard maintenance and solid waste management by-law was strategic. Taking place the day after garbage was scheduled to be collected and coinciding with the last day of exams at McMaster University, the Westdale streets were packed with rental trucks and trailers as many students packed-up for their summer exit from the City. As spelled out in section 6.4 of the waste management by-law, no property owner/occupant is permitted to place their trashcan at the curb before 7 PM of the day prior to collection. Likewise, trashcans need to be removed from the curb by 7 AM the day after pick-up. Given this requirement, no property in the neighbourhood should have had any waste or a trashcan within the City’s road allowance. As we navigated the narrow streets, the officer explained how some students prior to leaving for the summer, would throw their garbage at the curb where it would potentially sit for over a week waiting to be picked up. As the officer explained how problematic this was for the City, he abruptly stopped mid-sentences, tapping me on the shoulder and directing my attention to a “case in point”.

Exiting the municipal law vehicle, the officer and I stood at the mouth of the driveway. Using a digital camera, the officer snapped several photos of the garbage covering the entrance to the driveway. Side-stepping a scattering of red-solo cups, a pizza box and several small piles of household waste, the officer grabbed the tipped over metal garbage can and propped in upright. We then continued up the front porch and knocked on the door of the house. As we awaited a
response, the officer explained how speaking with people and “educating” them about the by-laws was an important elements of proactive enforcement. Introducing himself as being “with the City” the officer outlined his concerns to the young lady who answered the door. Discussing the importance of keeping the property clear of waste, no matter whether she was renting or not, the officer also noted how the large couch situated on the front porch was in clear violation of the City’s property standards by-law that prohibited “indoor furniture” on exterior features of a property. Looking startled as if the officer was insinuating she needed to immediately remove the couch herself, the young lady explained how she would clean up the driveway right away. Satisfied she would remove the garbage from the driveway, the officer informed her that he would not be issuing a Compliance Order but would be back in the area in the next 48 hours to ensure she had cleaned up the garbage. He went on to mention how it would be in her “best interest” to remove the couch as soon as possible.

Back in the municipal law vehicle, the officer discussed how, while it was not the technique used by other officers, he preferred to knock on the doors of properties before issuing a Compliance Order. As he explained, in many cases these discussions with local residents, including students were just a valuable as simply taping an Order to the door. With that being said, the officer went on to explain that often times Compliance Orders are needed when properties have multi-violations. In other cases, if the officer sensed the owner/occupant of the home would not follow through with a verbal agreement, he would issue an Order as a way of ensuring deficiencies were addressed. This was the case in our next proactive stop.

Parking beside five large garbage bags and an empty box full of folded cardboard, the officer and I proceeded to the front door of the property where we were greeted by a middle-aged woman holding a large bottle of cleaning spray. The officer informed the woman, who told us she had
been hired by the landlord to clean the house, the garbage bags on the curb would need to be removed as they were in violation of the City’s by-law. After voicing her displeasure with the inconvenience we were causing her, the woman conceded that she would move the bags before she left the property. Sensing the woman’s rather hesitant tone, the officer suggested perhaps it would be best for him to issue an Order that she could give to the property’s owner. After reiterating she would “probably” have time to move the bags, the officer decided it would be best to issue an Order. After writing up the Order, the officer returned to the house and handed it to the woman who had decided to leave the front door of the house open. Snatching the Order from the officer’s hand, the woman placed the Order on top of a stack of mail just inside the door.

As we continued our proactive blitz, the officer reflected on the challenges of enforcing the yard maintenance and solid waste management by-laws. As the officer explained, most people are unaware of just how broad the scope of the law is. Many Hamiltonians were surprised to learn that municipal law officers could issue Orders instructing residents to clean up waste, building materials and other unsightly messes in parts of their property not visible from the street. In fact, during many proactive inspections officers would also check the backyard for potential violations. The officer also outlined some of the challenges associated with obtaining “compliance”. While issuing Orders were usually enough to persuade residents to clean up unsightly messes, this was not always the case. For example, in one extreme case the officer explained how the City brought in a contactor to clean up an unsightly property in a rural part of the City. The owner of the property who the officer described as a “hoarder” threatened the contactor resulting in an altercation that required police assistance. The officer also noted how absentee property owners presented a major challenge for the City. As the officer explained, if an “out-of-town” landlord does not visit their property on a regular basis they may not be aware
that an Order has been issued. Likewise, some renters, particularly students may not feel obligated to address these types of yard maintenance issues. In some cases, the first time a landlord learns about a violation is when fees for inspections are added to their municipal law taxes.

Within a matter of minutes, we stumbled upon another violation. This time a house with a well-kept front lawn had several bags of garbage and water-stained cardboard boxes lined-up alongside the house. Unlike the previous stop, no one answered the door when the officer knocked. Deciding to investigate further, the officer and I proceeded into the backyard. Although the rear of the property was generally well-maintained, a thorough inspection of the backyard revealed an old metal bed frame and several additional weather-soaked boxes.

Surveying the backyards of the neighbouring properties, the officer explained how it was not that uncommon for these types of inspections to revealed clear violations at other properties. The officer added how this often placed him and his colleagues in a difficult position as it is unfair to issue to an Order to one property when the neighbour’s yard is just as bad.

Back in the vehicle, the officer filled out the Compliance Order outlining how the garbage bags, cardboard boxes and bed frame violated the City’s yard maintenance by-law. Given the nature of the violation, the officer indicated on the Order that the owner/occupant needed to comply within 5 days. The officer explained the importance of addressing Compliance Orders to the owner/occupant of the property as he did not know whether this property in question was a rental. He also noted the importance of attaching the City’s “Fees for Inspection” letter outlining the additional costs the owner could incur if they failed to comply with the Order. Using a roll of bright green masking tape, the officer secured the owners/occupants copy of the Compliance Order to the door.
Hamilton’s proactive enforcement is used to address numerous forms of physical disorder. For the City’s team of proactive officers, this means working through neighbourhoods actively seeking out property standards and yard maintenance deficiencies. In other cases, if a significant number of complaints are being made about a specific area of the City, municipal law management and supervisors will assign the proactive officers to the area in question. Often carried out by officers whose normal responsibility is to investigate complaints, in other cases proactive enforcement is used to address what were deemed to be problematic neighbourhoods or hotspots (for example, the enforcement blitz in Hamilton’s Westdale neighbourhood). As these examples have highlighted, officers demonstrate a great deal of discretion and often a willingness to work with local residents to address municipal law violations. Importantly, not all proactive enforcement demonstrates this same level of consideration. Aligning with the punitive mentality outlined in the Protecting the Future report, Hamilton does take a more zero-tolerance approach when it comes to certain issues regulated by municipal laws. The proactive enforcement of illegal dumping serves as a noteworthy example.

* Policing Illegal Dumping *

Driving slowly down a narrow downtown alley in an unmarked vehicle, the official I was accompanying apologized for the smell. Given the task of investigating cases of illegal dumping, the official explained how as part of his job, they often had to search through bags of trash in an attempt to identify those responsible for the illegal disposal. Depending on the location in the City, they would often transport the trash in the vehicle to a City of Hamilton
disposal site for further investigation. This process contributed to the rather unpleasant smell inside the vehicle.

Having identified several bags of garbage in the alley, the official parked the vehicle and reflected on the complexity of Hamilton’s illegal dumping problem. On the one hand, changes in Hamilton’s garbage collection policy influenced the scope of the problem. The official explained how, in recent years, Hamilton implemented a “one-bag limit” for each household throughout the City. Recognizing there would be cases where residents would need to exceed the one bag limit, each household was given 12 tags to attach to any additional bags of waste throughout the year. If needed, the City would also issue up to 14 additional tags. As part of the one bag policy, the City also implemented a program placing no restrictions on large item pickup. As the City employee, whose official title was “Illegal Dumping Monitor” explained, residents looking to dispose of larger household items such as couches, bed frames or mattresses could contact the City in advance to schedule items to be picked up at no charge.64

Not unlike other officers who had discussed the issue of illegal dumping, the official explained how the abundance of illegal apartments throughout the City also contributed to the issue. As the official suggested, it is somewhat unreasonable to expect a property that is home to 5 to 6 tenants to only put out one bag of garbage per week. In part because of the number of people who lived in the downtown, the official described how one or two bags of garbage, if left unattended in a parking lot or alley could quickly snowball into 15 to 20 bags. Reiterating what several other officers had discussed, the official also alluded to how illegal dumping did nothing

64 Illegal dumping monitors do not have the same powers as municipal law enforcement officers and are unable to issue a formal charges. However, they do have the power to issue Compliance Orders or formal warnings to individuals suspected of engaging in illegal dumping. One of the primary goals of the illegal dumping monitors is to collect evidence and build cases against repeat offenders. This evidence is then provided to a supervisor who has the power to lay charges.
in the way of improving the image of the downtown. In addition, because illegal dumping often occurred in City parks, the official added how some residents do not take full advantage of the vast amount of green space scattered throughout the downtown.

Exiting the vehicle, the Illegal Dumping Monitor collected the five full garbage bags left in the alleyway. Leaving the back door of the small SUV open in order to neutralize the smell of the garbage, the official documented our location and the quantity of bags in a notebook. The details of the investigation were then entered onto a form that would be uploaded into a database called HANSON. Named for the software itself, HANSON forms document the specific location of any illegal dumping sites. The system also allows officials to include the names of individuals who could have engaged in the dumping. As I was about to find out firsthand, potential suspects were often identified by sifting through bags of garbage. Given the size of the bags, the official decided it would be best for us to travel to a City of Hamilton garbage disposal site located several blocks away.

With the windows down in the small SUV, we proceeded towards the garbage disposal yard. However before we arrived at the disposal yard, the official noticed a curbside garbage can overflowing with trash and several large pieces of cardboard. Located in front of a variety store, the stack of cardboard appeared to be collapsed delivery boxes. Parking in front of the store, the official explained how this area of the downtown was particularly bad for illegal dumping. Exiting the vehicle to inspect the trash, tightly crammed into the curbside can, it became clear that the garbage most likely been placed there by variety store. As the official explained, it was not uncommon for businesses like this one to deposit their waste in the public garbage cans located outside of their stores. Entering the store, the official discussed their concerns with the store clerk. After several minutes of conversation, it became obvious the clerk was more
committed to blaming others in the neighbourhood than admitting to the disposal of the store waste in the City container. In fact, the official listened patiently as the clerk explained how the houses across the street used the City container for their own household garbage on a regular basis. Sensing the conversation had reached a dead-end, the official reminded the clerk about the laws regulating illegal dumping in the City. As we proceeded to the City of Hamilton garbage disposal yard, the official explained how, despite the fact that the garbage most likely belonged to the convenience store, there was not enough evidence to pursue any further action.

Having entered the City yard, the official carefully sifted through the contents of each bag. While meticulously separating each piece of trash, the official noted how many people would go to great lengths to remove any potential identifying information from their garbage before disposing of it inappropriately. For example, the official made a point of showing me several empty prescription bottles whose labels had been removed. In addition, the spots of several envelopes that once contained personal information had been torn off. After roughly 25 minutes of separating each piece of garbage, the official located several wet envelopes containing an address and unit number. Using a DSR camera, the official snapped several pictures and then sealed the wet envelopes inside a large plastic evidence bag. As I later learned, once back at the municipal offices this evidence would be stored, and the digital images would be uploaded into the HANSON system.

Having disposed of the waste, we left the City yard and proceeded to inspect a handful of illegal dumping “hotspots”. As the official explained, illegal dumping in several spots of the downtown had become so problematic that the City began to use CCTV’s to attempt to catch people in the act. This use of technology combined with the efforts of the Illegal Dumping Monitoring Team had resulted in several charges. While the City of Hamilton did a good job cleaning up the
messes left by dumping, the official explained how some areas of the City were more difficult to clean than others. For example, the train tracks running through the middle of the downtown were a common site for illegal dumping. However, because the tracks and surrounding area were federal land, the City needed special permission to remove any excessive waste from the area.

After several drive-by inspections of illegal dumping hot-spots, we proceeded up the mountain where we collected two additional bags of trash illegally dumped along a mountain brow pedestrian trail. The official explained how the escarpment was a hotspot for illegal dumping and how, on several occasions, the City had investigated cases where contractors had dumped trailer loads of discarded buildings materials down the side of steep embankment.

Deciding to sift through the bags on site, the official went through an identical process to what had been done roughly an hour before. Unlike the previous search, a detailed inspection of the contents in each bag did not reveal any useful information. Pulling into a small gravel parking lot with a picturesque view of the City, the official proceeded to document the area where the bags had been located. Before we had a chance to exit, a large City of Hamilton truck pulled into the lot and two workers proceeded to switch out the garbage bag in the public parking lot. Recognizing the illegal dumping monitor’s City issued jacket, the two workers engaged the official in conversation and offered to dispose of the garbage in the back of the SUV. After a brief discussion, the City official encouraged the two workers to contact the municipal law office if they encountered any incidents of illegal dumping. Chuckling, one of the workers informed the officer how roughly 90% of the estimated 100 bags in the box of their truck was garbage that had been illegally deposited inside several public parks located along the mountain brow. Pointing towards garbage overflowing from the box of the truck, one of the workers offered the
Illegal Dumping Monitor an opportunity to sort through the bags it if they liked. The Illegal Dumping Monitor kindly declined the offer.

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More so than the other examples discussed in this Chapter so far, illegal dumping investigations were informed by what appeared to be a zero-tolerance mentality. Unlike the proactive enforcement of property standards by-laws or one-day blitzes of the City’s solid waste management law, the underlying goal of most illegal dumping investigations was to collect enough evidence to press a charge. This punitive tone to illegal dumping investigations was also reinforced by the way Illegal Dumping Monitors discussed the importance of collecting and documenting evidence. While property standards officers discussed how photos helped establish patterns of compliance, Illegal Dumping Monitors expressed the importance of taking photos which could be used to press charges. This is not to suggest that Illegal Dumping Monitors do not issue Compliance Orders and formal warnings. As one Illegal Dumping Monitor suggested, warnings were particularly important in cases where they felt a resident or family had limited options when it came to waste disposal. This Chapter will now discuss the regulation of social disorder including how proactive enforcement is utilized when enforcing licensing standards.

6.2 Policing Social Disorder: Licensing, Zoning and Public Nuisance

Hamilton’s proactive approach to the enforcement of municipal law has influenced how the City addresses property standards, yard maintenance and illegal dumping. As the examples described above suggest, officers use various compliance seeking techniques when addressing violations relating to physical disorder. Building on these examples, this Chapter will now discuss how a similar proactive approach is used to address issues of social disorder. In doing
so, this section will describe how the proactive enforcement of Hamilton’s licensing, zoning and
nuisance by-laws are used to regulate many different industries and their patrons. Particular
attention will be given to how proactive enforcement is used to address municipal law related
issues within the nighttime economy; this will include a brief overview of how municipal laws
are incorporated into multi-jurisdictional proactive campaigns meant to address negligence and
ensure safety within the nighttime industry.65

Totaling 350 pages, the consolidated version of Hamilton’s licensing by-law regulates
many different industries including bars, nightclubs, automotive garages, residential care
facilities, pawnshops, adult entertainment establishments, body rub parlours and taxis. Like
other municipal laws, Hamilton’s licensing by-law is extremely detailed, outlining the specific
regulatory requirements for each industry. For example, adult entertainment establishments
cannot display more than two illuminated exterior signs. While garages with a “B1” license can
complete engine repairs and bodywork, garages with an “E” license can only wash the exterior of
vehicles. By-laws also regulate the amount of X-rated videos an adult novelty store can display.
While distinction between an “Class A” and “Class B” novelty store are discussed over 3 pages,
Schedule 25, the 70- page section of the licensing by-law dedicated to the taxi industry, covers
everything from how licenses are to be obtained, the required amount of training each driver
must receive as well as the safety requirements for each vehicle.

With the exception of the enforcement of licensing standards regulating the taxi industry
and businesses that cater to the nighttime economy, during my time in the field, a majority of the
time the licensing by-law was enforced on a complaint-by-complaint basis. Unlike the officers

65 In this section, the term nighttime industry is used to describe the bars, restaurants and nightclubs catering to the
late night crowd.
dedicated to the proactive enforcement of the yard maintenance and property standards by-laws, proactive enforcement of the licensing by-law is done by officers normally involved in investigating complaint-based cases. In terms of prioritizing, most proactive licensing enforcement is carried out as a result of specific concerns within a given industry. Most often, these compliance-related concerns led to proactive investigations that shared a close relationship to what several managers, supervisors and officers called “public safety”. As will be discussed below, enforcement of Schedule 25, the section of the licensing by-law that regulates taxis, would be a good example. In other cases, the licensing requirements of certain industries require annual inspections. For example, although some advanced notice is given, Residential Care Facilities (RCF) are inspected annually. Like the taxi industry, “safety” inside RCF’s is one of the City’s primary concerns. On other occasions, officers engaged in proactive enforcement as part of individualized attempts to maintain compliance. For these individual officers a proactive approach was instrumental for preventing breaches of the City’s licensing by-law. The following narrative describing an afternoon shift with a licensing officer provides a noteworthy example.

**Compliance, Safety and Local Knowledge**

Standing in the lobby of the 150-year-old Victorian home turned Residential Care Facility (RCF) the manager discussed how many of the fixtures in the facility were original. Pointing to the solid wood staircase, the facility’s manager reminisced how we were standing inside a piece of Hamilton’s history. Smiling in agreement, the licensing officer reminded the manager how there were still several property standards issues that needed to be addressed. While the officer was satisfied that most of the items listed on the Compliance Order had been addressed, there were still several outstanding issues in need of repair. Given that today’s visit was a follow-up inspection, the officer requested the manager address the outstanding issues as soon as possible.
Back in the municipal law vehicle, the officer explained the importance of maintaining compliance within Residential Care Facilities. The officer explained how the deinstitutionalization of the 1970s had a huge impact on the number of RCFs operating throughout the lower City. While the licensing by-law required annual inspections of all Residential Care Facilities, the officer noted how it was immensely important to follow-up to ensure any possible deficiencies were addressed. As the officer explained, these facilities housed some of Hamilton’s most “at need population”, a majority of whom would not be able to live healthy lives without some assistance. Continuing the passionate overview of the importance of maintaining compliance within the RCF industry, the officer expressed how maintaining “safety” and providing a “voice” for those who would not otherwise have one was at the heart of his job.

On route to complete another follow-up inspection, the officer noticed several vehicles parked out front of a small auto repair shop that, by his recollection, had sat vacant for some time. Curious as to whether a new business was operating out of the garage we pulled over to further investigate. After grabbing his metal clipboard with several blank Compliance Orders attached, the officer casually walked through the front door, past the reception desk and proceeded into the large automotive bay. Inside the garage, we observed several men diligently polishing an older model sports car. Surprised at the site of the officer, one of the men dropped the sponge he was using and asked the reason for the officer’s visit. Greeting the man with the same demeanor exhibited when speaking with the manager of the RCF, the officer requested to see the garage’s businesses license. Having retrieved the license from his office, the man presented it to the officer. Inquiring further into the type of business the man was running, the officer asked several questions including whether they were a repair shop or simply a facility that washed cars. Aware of the restrictions of their “E” license, the man explained how they were simply an automotive
detailing business. Seeming skeptical of the man’s response, the officer inquired into why there were automotive parts located in the garage. Quick to reply, the man explained that many of the automotive parts and tires located at the rear of the property had been left by the previous owner. Satisfied the man was aware of the limitations of his “E” license, the officer thanked the man for his time and mentioned how they might stop in on his own personal time to have their vehicle detailed. Eager to return to what he was doing before, the man smiled and simply responded with “great”.

Traveling towards our original destination, the officer discussed the importance of periodically stopping by local businesses to ensure compliance with the licensing by-law. Similar to what was discussed by officers who enforced property standards by-laws, this officer outlined how maintaining compliance with the City’s by-law required “constant attention”. As the officer went on to explain, it was important that the City stay on top of compliance issues, otherwise word might spread amongst local businesses that the laws were not being upheld. The auto repair industry was a good example. Given the specific regulatory requirements in the licensing by-law, the officer explained how some shops, especially in the areas of the City we were in had a history of compliance issues. The proactive stop we had just made was “all about preventing violations”.

Having parked across the street from our planned destination, a newly opened “takeout only” restaurant, the officer immediately noticed a violation under the City’s sign by-law (#10–197). Presumably as an attempt to draw in new business, the owners of the restaurant had secured a small “now open” sign to a large tree located directly in front of restaurant. Prior to exiting the vehicle, the officer filled out a Compliance Order, outlining how the sign needed to be removed
immediately. Justifying this approach, the officer explained how an Order would reinforce the importance of not engaging in such behaviour in the future.

Now inside and having verified the newly opened restaurant had obtained the proper license, the officer discussed his concerns with the sign secured to the tree outside. Apologizing several times, the store manager ensured the officer how he would remove the sign as soon as the lunchtime rush was complete. Given the small crowd gathered inside the restaurant, the officer agreed this timeline would be adequate. Leaving the Compliance Order on the countertop, we exited the restaurant.

Curious as to whether or not the restaurant owner would comply with the request to remove the sign, the officer decided to stop into several other businesses located along the street. After several short conversations in four different businesses, all of which had the up-to-date and valid business licenses, we crossed the street and returned to our vehicle. Seeing that the now open sign had been removed from the tree, the officer noted how the restaurant’s prime location and trendy “takeout only” menu would most likely result in success.

* * *

The events described above demonstrate how a proactive, or what some officers called a “preventative approach” was in some cases deployed in accompaniment to reactive investigations. Unlike some targeted proactive enforcement shaped by the directives of managers and supervisors, this type of enforcement was often initiated by individual officers and influenced by situational factors as well as their in-depth understanding of more localized compliance issues. The proactive inspection of the auto repair shop would be a good example of such localized knowledge. In addition to demonstrating how the localized, street-level
knowledge of compliance issues shapes enforcement, the events described above also show how concerns for safety inform the enforcement of the licensing by-law. Maintaining safety within Residential Care Facilities was identified by numerous City managers and supervisors as well as the frontline officers as the driving force behind enforcing the licensing by-law. Similar concerns inform the enforcement of Schedule 25, the section of the licensing by-law regulating the taxi industry.

**Regulating the Taxi Industry: The Continuum of Compliance**

*The Smoking Cab*

Having just arrived at the municipal office and still in their civilian clothing, one of the two officers I was accompanying that evening discussed a recent encounter with a taxi driver. The officer, having just investigated a noise complaint, drove past a taxi whose driver appeared to be smoking a cigarette. Pulling in behind the taxi, the officer recalled how the driver had panicked at the sight of the officer and dropped his cigarette on the floor mat of his cab. Despite the plume of smoke now filling the driver side of the cab and the cigarette clearly visible on the floor mat, the driver insisted that he was not in fact smoking. Reflecting on the interaction, the officer noted how after about 30 seconds of continual denial, the taxi driver extinguished the cigarette with his foot. The officer went on to explain that while Hamilton had designated officers who enforced the provincial smoking laws, it was not uncommon for municipal law enforcement officers to issue tickets to taxi cab drivers who were violating the laws prohibiting smoking in a commercial vehicle.

*   *   *
Maintaining compliance within the taxi industry has proven to be a challenge for the City of Hamilton. As previously established, concerns with safety, illegal sub-leasing and unlicensed drivers represent only a portion of the compliance-related issues within the industry. As several officers and municipal law officials explained, grey-areas in the licensing by-law itself create several enforcement obstacles. For example, plate owners can legally lease plates to another party who can, in turn, hire one or more drivers to operate the taxi. Although all drivers have to be licensed through the City, in many arrangements it is the party who leases the plate who owns and maintains the taxi itself; therefore, in some situations the plate owners have little to no knowledge of who is actually driving the taxi with their plate attached. This type of arrangement causes numerous enforcement problems. Take for example a case where an officer discovers a serious safety concern while inspecting a vehicle. According to Schedule 25, taxi drivers, plate lessees and plate owners are all responsible for ensuring vehicle safety. As a result, it was not uncommon for an officer to issue a charge to all parties including the plate owners who may not even know the make/model of the vehicle his/her plate is on or the taxi driver. This was made further problematic by the lack of “short-form wording” or set fines available to officers enforcing Schedule 25. For example, unlike nuisance regulations that have clear set fines (i.e., Part I Provincial Offense Notices), officers who wish to enforce Schedule 25 of the licensing by-law have to issue a Part III summons. Unlike Part I offenses that carry a set fine, Part III offences are heard by Provincial Court Judges. As a result, anytime a Part III summons is issued, an officer also has to put together a detailed briefing to deliver to the Crown attorney. If the case then proceeds to trial and the parties are found guilty, a judge decides the amount of the fine as well as what parties should be responsible for the violation.
Despite the complexity of Schedule 25 of the licensing by-law, the City of Hamilton routinely engages in proactive enforcement blitzes in an effort to maintain compliance with the taxi industry. In addition to targeted proactive enforcement, officers responsible for responding to noise complaints were also encouraged to actively seek out Schedule 25 violations during their evening/night shifts. However, while in the field, officers whose primary responsibility was reacting to noise complaints seldom enforced Schedule 25. Instead, these officers most often enforced the clause of the Smoke-Free Ontario Act (S.O. 1994, C. 10) prohibiting smoking in a commercial vehicle. Schedule 25 was, however, commonly enforced during proactive taxi blitzes. Much like the punitive mentality informing how by-laws regulating illegal dumping were enforced, Hamilton’s approach to taxi enforcement would best be described as zero-tolerance. For example, over the course of a nine-month enforcement blitz, which coincided with my fieldwork, the City laid over 70 charges for violations of Schedule 25. As discussed earlier, given the over 440 taxis in the City, and what one officer called the “broader issues with the industry”, most proactive enforcement aimed to ensure the “safety” of Hamiltonians who relied on taxis for transportation. As one municipal law official discussed:

Through some of the complaints we received, and through the inspections we were having, it was clear that people seemed to be getting away with putting vehicles on the road that aren’t safe. The bald tires, the brake lights out, emergency brakes not working, cameras not operable, meters being adjusted that we have no control over, the general appearance of the vehicles…In the beginning we start with education, we started gentle. As we moved along and people [the taxi industry] weren’t complying we had to hit a little harder and harder to get people to realize it…This is a head location for regional social services so you have vulnerable people getting in those cars.

As the following narrative demonstrates, maintaining safety for passengers and drivers was a reoccurring theme during most proactive blitzes.
Shifting the unmarked City vehicle into park, the officer carrying out the proactive taxi blitz paced briskly towards the four taxis parked outside the downtown Sheridan hotel. Cautioning two taxi drivers who were making small-talk outside of their cars “not to go anywhere”, the officer proceeded with a procedure I had witnessed roughly a dozen times that evening. Approaching the last car parked in the hotel’s designated taxi stand, the officer requested the driver’s government issued driver’s license, his City issued taxi license and proof of insurance. While the driver sorted through his wallet in an attempt to retrieve the requested documents, the officer completed a quick circle check of the vehicle including an inspection of the tires. Back at the driver side window, the officer reviewed the driver’s documentation, making a point to lean down to ensure the taxi’s meter had been locked. Satisfied the driver’s documentation was valid, the meter seal locked and the vehicle’s camera operational, the officer encouraged the driver to look into a new set of rear tires as the ones presently on the vehicle had “seen better days”. Having repeated a similar process with the next three taxis parked in front of the hotel, the final driver whose taxi was noticeably in better shape than the previous three cars, noted how all of the City required inspections and operating fees had been hurting his bottom line. Not unlike other drivers that evening, this driver voiced his displeasure of the City requirement that stipulated he needed a camera in his taxi. Repeating a response I had heard several times that evening, the officer explained how the cameras were also all about ensuring safety. The driver, a very articulate middle-aged man, disputed the fact that a camera would prevent him from potentially being stabbed like one of his colleagues the year before. After several minutes of discussion about the violence that had been directed at taxi drivers in recent years, the man insisted how some type of shield system would be more effective in preventing attacks.
Continuing the proactive taxi blitz, the officer explained how the biggest concern this evening was safety-related issues. Much like the other officers who spoke about the taxi industry, the officer discussed how many people relied on taxis as their primary method of getting around the City. Noting how Hamilton was a “service hub” the officer reflected on how many people who relied on the industry suffered from disabilities. The officer also added how Hamilton’s senior’s population, especially in the downtown, also relied on the taxi industry.

Rounding the corner next to a large downtown supermarket, the officer entered the vacant parking lot. As predicted, several taxis were parked close to the busy one-way street. Engaging the drivers with the same series of requests as had been done in the previous inspections, the officer proceeded to check each of the five taxis for any noticeable safety concerns. While all five late-model Crown Victoria’s showed visible signs of wear, the officer was particularly concerned about one vehicle that had a 3-inch crack on the passenger side window. Having patiently listened to the officer’s concern about the crack, the driver explained how he was “only a driver” and had mentioned the crack to his boss several days before. After a discussion about how drivers were also responsible for ensuring vehicle safety, the driver explained how he really had no choice when it came to the physical condition of his car. As the taxi driver put it, if he decided not to drive the taxi because of the safety issues his boss would surely find someone else who was willing to do so.

After completing several more inspections throughout the downtown, none of which revealed any additional safety concerns, the officer decided to head towards Hess Village (part of the City’s entertainment district) to do one final series of inspections. Given that it was almost 11 PM, Hess Village was most likely overrun with taxis. After several successful inspections, the officer decided to approach one more taxi driver parked near the end of the busy entertainment
district. Having provided all of the necessary documentation, the driver, another middle-aged male asked the officer how he could best deal with a situation that has arisen in recent weeks. As the driver explained, one of his regular customers, a woman in her early 20s had recently begun to bring her young child in his cab. While in the taxi, the mother insisted on hanging onto her young child, who according to the taxi driver’s estimate, was roughly 8-months old. Concerned for the child’s safety, the taxi driver asked the officer if Hamilton’s licensing by-law allowed him to install a child seat in his taxi to accommodate the young lady and her child. Expressing his appreciation for the driver’s concern for the child’s well-being, the officer explained how to his knowledge there was not any clause in the licensing by-law regulating the issue. Thanking the officer, the driver explained how he was going to inquire further into the child seat and potentially contact his insurance company before moving forward.

Heading back to the municipal law offices, the officer pulled in behind one final taxi parked a few blocks outside of the entertainment district. Unlike most of the other vehicles we had inspected, this taxi was designed to accommodate passengers who needed a wheelchair. After checking the driver’s documentation and verifying he had an “accessible designation” on his City-issued license, the officer kindly remarked how the driver’s taxi was in “immaculate shape inside and out”. Smiling, the driver proudly boasted that this taxi was the “cleanest in the City”.

Pulling back into the parking lot across from the municipal law offices, and reiterating how compliance within the taxi industry is “operating on a pendulum”, the officer explained how rare it was that no charges were pressed during the blitz. Speaking in an optimistic tone, the officer suggested perhaps the industry was getting the message the City was trying to send. Sounding less optimistic, the officer explained how the high-level of compliance experienced throughout the evening could have resulted from word spreading that a proactive blitz was taking place.
This in turn might have influenced some operators to pull their non-complaint or unsafe taxis off
the road that evening.

* * *

The Nighttime Economy: Zoning, Licensing and Public Nuisance

More so than other businesses, bars and nightclubs are regulated by an array of different
pieces of provincial and municipal legislation. In Ontario, for example, all establishments that
serve alcohol to the public require a Liquor license issued by the Alcohol and Gambling
Commission of Ontario. The capacity of an establishment, including a bar or restaurant’s
outdoor spaces, are regulated by both the Ontario Building Code (S.O. 1992, C. 22) and Ontario
Fire Code (S.O. 1997, C. 4). As part of a broader initiative, provincial legislation also regulates
smoking in and around bars and nightclubs. Not unlike New York City (see Hae, 2012) and
Toronto, (see Valverde, 2012) municipal laws regulate Hamilton’s bars and nightclubs in several
different ways. For example, all bars and nightclubs require a City of Hamilton issued business
license; the license, different from the one issued by Hamilton Food Safety inspectors, requires
bars and nightclubs to have noise and crowd control plans, restricts hours of operation and
demands establishments have one security guard for every 100 patrons. If located in Hess
Village, the City’s designated downtown Entertainment District, bars and nightclubs are also
required to hire Special Duty Police Officers whose services are paid for through a pro-rated
service based on an establishment’s capacity. Hamilton’s zoning by-law also plays an important
role in regulating the activities at bars and nightclubs. While the zoning by-law regulates where
a bar or nightclub can be located through permitted land-use designations, the law also regulates
the type of activities a nighttime entertainment establishment is allowed to provide. For
example, clause 09-210, specifies that a patio “shall not be used for commercial entertainment or commercial recreation including live or recorded music or dance facilities”. At the centre of ongoing debate during my time in the field, this zoning clause essentially prohibits any type of music, live or recorded and even restricts bars and restaurants from mounting televisions to the exterior of their buildings (even if there is no sound). As the following narrative demonstrates, enforcing Hamilton’s zoning by-law is far from straight forward.

Noisy Summer Nights

Walking down the crowded cobblestone streets of Hamilton’s Entertainment District, the officers I was with that evening explained how the purpose of this evening’s shift was twofold. The first task, which would occupy very little of their time, was to issue a warning letter to a bar/nightclub that had fallen behind on their required payments for Special Duty Police Officers. As the officers explained, “safety” concerns within Hess Village led City Council to implement a program requiring bars and nightclubs to pay for the additional security presence. As one of the officers noted, concerns for “safety” in the Entertainment District had been heightened in recent years after a series of violent altercations including the death of an 18 year old who was stabbed while standing in a parking lot neighbouring the Hess Village area. The second objective for the evening was to investigate and educate bar/nightclub owners on the clause in the zoning by-law that prohibited live entertainment or music on commercial patios. As the officers explained, the City had received several complaints about bars/nightclubs violating this stipulation of the zoning by-law. Although the zoning by-law was seldom enforced proactively, the officers reflected on how this evening’s investigation should provide a better idea of the scale of non-compliance throughout the City.
Having issued the warning letter to the owners of the establishment who had fallen behind on their required payments for Special Duty Police, the officers documented several clear violations of the City’s zoning by-law prohibiting commercial establishments from providing entertainment to their patios. Throughout this process, which included taking pictures of DJ booths, speakers and televisions located on several patios, the officers also spoke to nightclub managers and bouncers informing them of their obligation to uphold the required permitted uses of their properties. This also included a reminder of how the officers were investigating violations throughout the City and that today’s proactive enforcement was not only targeting the Entertainment District.

Standing in front of a three-story century home- turned nightclub, the officers discussed the challenges associated with enforcing the zoning clause. The nightclub we were standing in front of provided a good example of such challenges. While no speakers or DJ equipment was visible on the patio, the nightclub’s loud electronic music could be clearly heard outside. Pointing out that all of the windows in the establishment were open, the officers guessed that given the age of the building, the nightclub probably lacked any type of air-conditioning unit. In order to keep patrons at least modestly comfortable in the hot July evenings, the logical solution was to open the windows. However in doing so, the speakers located inside of the nightclub were clearly broadcasting music onto the patio. One of the officers noted how the dozen or so patrons dancing on the patio was clear indication that some type of “entertainment” was being provided.

Having left the entertainment district, en route to inspect several other bars/nightclubs, one of the officers I was accompanying discussed some of the citywide debates surrounding the enforcement of the zoning by-law. Repeating what several nightclub staff members had mentioned during the proactive inspections, enforcing the zoning requirement prohibiting
entertainment to a patio was a bit of slippery slope. As the officer explained, if enforced to the letter, any sports-bar or restaurant that had exterior televisions violated the zoning requirement. The officer also explained how some might see the zoning restriction as counterproductive for the City’s entertainment industry. While emphasizing his “neutrality” on the issue, the officer explained how prohibiting bars and nightclubs from playing music on their patios was probably not great for their bottom line. On the other hand, the officer noted how many bars and nightclubs are located in close proximity to residential neighborhoods and how loud music would be less than ideal for people who “enjoyed sleeping on the weekends”.

After completing several more proactive inspections throughout the City and documenting several further violations of the zoning by-law, the officers logged on with the Hamilton Police and returned to their reactive duties investigating noise-related complaints.

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As will be discussed in the next Chapter, a majority of zoning enforcement is carried out as a response to complaints made to the City. However, not unlike the enforcement of other municipal laws, in cases where the City has received multiple, ongoing complaints about certain industries, it will carry out proactive investigations. Importantly, like the proactive enforcement of clause 09-210 which prohibits commercial establishments from providing entertainment to patios, most zoning investigations, whether a property is involved in the nighttime economy or not, take considerable time to investigate and often involve prolonged deliberation between
officers, supervisors and sometimes the City’s legal department. The same cannot be said for Hamilton’s approach to policing public nuisance.

Public Urination and the “Bull-Shit Ticket”

Having ensured all of the information was accurate, the officer handed over the $265.00 public urination ticket to the intoxicated millennial. Following a procedure I had witnessed dozens of times before, the officer explained how, like all provincial offenses, the accused party had the option to pay the ticket, seek early resolution or proceed to court. In response to the young man’s accusation of how “bull-shit the ticket was”, the officer reiterated how the City did not tolerate this type of nuisance and how there was no excuse for urinating in a parking lot when he had clearly just left the bar. Pointing to the condominiums being built in close proximity to where the ticket had been issued, the officer added how the people who are paying $500 000 for a luxury condominium did not want to see people “pissing besides their building”. Presumably sensing there was no way to get out of the ticket, the young man asked how much the ticket was going to “set him back”. Despite having clearly explained the set fine and added court fees only several minutes before, the officer once again repeated how the total charge for public urination in the City of Hamilton is $265.00. Repeating how “bull-shit” the ticket was, the young man sarcastically thanked the officer for “ruining his night” and proceeded to rejoin his group of friends who patiently waited several meters away.

* * *

66 Similar to Schedule 25 of the licensing by-law, the zoning by-law does not have any predetermined fines. Therefore, officers must engage in a similar process by issuing a Part III summons to court where the case is heard by a provincial court judge.
In comparison to all of the other municipal laws enforced during my time in the field, violations of by-law number 09-110, “a by-law to prohibit and regulate certain public nuisances” including public urination and defecation most often resulted in a ticket. In fact, during the close to six months I spent in the field, I witnessed the issuing of close to 45 public urination tickets, a majority of which were handed out to younger male partygoers. Similar to the proactive zoning blitz described above, the enforcement of the City’s nuisance by-law was carried out by the officers who also enforced the noise by-law on weekends. With this in mind, proactively seeking out nuisance represented only a small fraction of the investigatory work these officers engaged in. For example, over the course of an 8-hour shift responding to noise complaints, no more than one or two hours were dedicated to proactive nuisance enforcement. As was often the case, it was the downtime between being dispatched to noise complaints when most tickets were issued. In some cases, this involved patrolling an area, either by car or on foot, actively seeking violations. As the following narrative demonstrates, in other cases officers would stumble upon violations by simply being in the right place at the right time.

The Two Hundred and Sixty-Five Dollar Piss

Clearing us from the noise investigation we had just responded to, the officer informed the Hamilton Police dispatcher how a warning had been issued to the accused parties and that the gathering had been broken up. The dispatcher informed the officer there were no other calls “on the board”. Pulling onto a Westdale side street, the officer put the vehicle in park and proceeded to finalize his notes from the previous noise complaint. Having just broken up a loud backyard gathering, the officer and I watched as several small groups of university-aged partygoers traveled to their next destination. As the officer outlined the large number of upcoming compliance follow-ups they needed to complete in the coming week, we observed a young man
fall back from whom he was walking with. Now walking in the opposite direction from his
group of friends, he stopped, looked around and proceeded to urinate into a series of bushes
located on the front lawn of a house he had just moments before walked past. Pulling the vehicle
across the road and parking facing incoming traffic, the officer calmly waited for the young man
to finish urinating. Upon completion, the young man turned, glanced at the officer and I, who
had now left the vehicle and angrily asked, “how much did that piss just cost me”?

* * *

Similar to when responding to noise complaints, the proactive enforcement of the
nuisance by-law most often resulted in heated exchanges between municipal law officers and
members of the public. Alcohol certainly played a significant role in some of these heated
exchanges. Although public urination charges were issued throughout the City, the majority of
tickets were handed out close to Hamilton’s Entertainment District and in the neighbourhoods
surrounding McMaster University and Mohawk College. Furthermore, all of the tickets I
witnessed being issued were handed out in the late night and early morning hours of the
weekend. As several officers explained, the areas surrounding Hamilton’s Entertainment District
had been identified as a high-priority area for proactive enforcement for some time. In fact,
public nuisance, specifically public urination, is noted within Hamilton’s licensing by-law as one
of the reasons that Hess Village bar/nightclub owners are required to pay for additional Paid
Duty security. As one officer explained, proactively enforcing the public nuisance by-law in the
area also frees up the police to deal with what they called “the serious problems”. At the same
time, despite being identified as a high-priority area for nuisance enforcement, internal politics
do place limitations on the extent to which these laws can be enforced. In fact, on one occasion, a
busy weekend in the Entertainment District, officers decided to work an extra hour of overtime
to assist the Hamilton Police who had been dealing with a series of violent incidents in the area. Over the course of one hour, the two officers issued seven public urination tickets. Although one officer noted how the total value of the tickets far exceeded the compensation for the overtime, I found out later how the officers were discouraged from engaging in such behaviour in the future as the overtime was not authorized by a supervisor.

With this context in mind, it is also worth noting that the threshold of evidence needed to issue a public urination ticket is quite high. In other words, officers are not simply handing out public urination tickets to anyone they suspect may have violated the by-law. For example, in one case in the neighbourhood surrounding McMaster University, an officer and I observed a male enter a darkly lit part of the street while simultaneously undoing his belt. By the time the officer approached the male, he had turned and was securing his belt back into the buckle. Standing beside what appeared to be a large puddle of urine the officer asked the male what he was doing. Smugly replying he was “getting some air” the officer informed the young man of the City’s by-laws and to consider the discussion a warning for next time. While walking back to the vehicle the officer explained how he had not actually witnessed the young man urinating and how the sight of a puddle alone might not stand up in court. This type of discretion was not uncommon during incidents of public urination. In another case, an officer and I witnessed a woman, with her dress hiked up to her waist, kneeling beside a hydro generator. Her two friends, presumably in attempt to block any onlookers, were standing on either side of the generator. While remaining inside the municipal law vehicle, the officer asked the woman what she was doing (insinuating she may have just urinated). The woman, now standing with her dress returned to its normal position, adamantly denied she was engaging in such “un-ladylike behaviour” adding how even if she was “relieving herself”, giving her a ticket would imply that
the officer and I had been purposefully watching her undress. Deciding not to issue a ticket, the officer later explained how some females often raised similar concerns when caught urinating in public and how such accusations were “problematic when it came to enforcement”. The perceived ability of a person to pay a ticket also influenced discretion in some cases. For example, on one evening, a rare occasion when no public urination tickets had been issued, an officer and I observed an older man urinating in front of one of the downtown homeless shelters. Preparing myself for the officer to make an abrupt U-turn to ticket the man, the officer turned to me and without hesitation suggested “there was no point ticketing a guy who clearly couldn’t pay”. While the nuisance by-law regulates the activities of individuals, municipal laws are also used to govern the bars, restaurants and nightclubs that cater to the late night crowd. On occasion, municipal law enforcement collaborates with other enforcement agencies to ensure compliance with a range of different federal, provincial and municipal codes.

Multi-Agency Task Forces and Proactive Partnerships

Municipal laws represent only one piece of a broader regulatory framework governing the nighttime economy. While a majority of the time zoning, licensing and nuisance by-laws are enforced with little direct involvement from other regulatory bodies (e.g., the police) this is not always the case.

Arriving with the Calvary

Gathering outside one of Hamilton’s more popular nighttime entertainment destinations, the officer leading the Multi-Agency Task Force (MATF) double-checked to ensure all of the agencies involved in the evenings proactive enforcement blitz had arrived. Participants in the evenings MATF included inspectors from the Alcohol and Gambling Commission of Ontario,
Hamilton’s Smoke-Free Ontario Officers, City Fire Inspectors, representatives from the Hamilton Police and Municipal Law. Having ensured all agencies were using the same radio channel, the group of roughly 15 officials proceeded briskly towards the front door entrance that was partially obstructed by several dozen party-goers waiting to get inside. Once inside, enforcement officials dispersed to investigate any potential compliance issues under their respective pieces of legislation. Not unlike other establishments we had visited that evening, the main focus of these inspections was to investigate concerns regarding overcrowding, over-serving, underage drinking, smoking and various licensing related issues. For municipal law enforcement officials, this type of proactive enforcement focused primarily on ensuring that establishments were abiding by their zoning and licensing requirements. After roughly 30 minutes inside the nightclub/bar, the various enforcement agencies reconvened outside to debrief and discuss any potential violations. While most of the enforcement agencies were satisfied that the establishment was complying with the legislation within their jurisdiction, inspectors from Hamilton Fire did raise the concern of capacity. In addition, municipal law officials also noted that the establishment, not unlike other competitors, was violating the zoning of their property by providing entertainment to their patio. When questioned by the MATF lead officer if they wanted to pursue a charge, municipal law suggested that this compliance issue was something that would be addressed in a future visit.

* * *

Over the course of the evening, the sequence described above played out close to a dozen times throughout Hamilton’s downtown. For municipal law officers, the enforcement blitz identified several establishments with outdated or close to expired business licenses. Officers also noted several violations of the property standards by-law. For other agencies, violations
posed more serious public safety threats. In fact, as one official involved in the proactive blitz explained, safety was really at the heart of the City’s MATF initiative. As the official went on to discuss, a fire in a Rhode Island nightclub in the early 2000s that killed roughly 100-concert goers prompted officials from various City departments to proactively inspect compliance issues within the City’s numerous nightlife designations. Ironically, over the course of the evening, Hamilton’s Smoke Free Officers noted numerous cases where the province’s smoking regulations were not being upheld including a bar allowing patrons to smoke on a covered patio. In addition to overcrowding, Hamilton’s Fire inspectors also identified several violations under the Ontario Fire Code including a case where an establishment’s rear exit was locked using a padlock.

6.3: Conclusions: The Multiple Logics and Bureaucratic Politics of Proactive Enforcement

The purpose of this Chapter has been to discuss Hamilton’s proactive approach to the enforcement of municipal law. The first section of this Chapter has discussed various ways in which proactive enforcement plays out at the street-level and how such enforcement attempts to address physical disorder. As this Chapter has demonstrated, while some proactive enforcement is rather broad in scope, seeking any potential violations under the City’s property standards and yard maintenance by-laws, in other cases this type of enforcement takes on a narrower focus, targeting specific types of violations. Building on these examples, the second section of this Chapter discussed how proactive enforcement is leveraged to address issues of social disorder throughout the City. Not unlike the enforcement of more aesthetically-focused property standards by-laws, this second section has demonstrated how officers use a broad range of enforcement techniques when attempting to uphold laws regulating numerous industries including those catering to the nighttime economy. While the themes discussed above will be
revisited in this dissertation’s discussion Chapter, there are several points worth noting before moving forward.

The proactive enforcement of municipal laws in Hamilton is shaped by multiple logics. For example, while the proactive enforcement of some municipal laws (e.g., property standards and yard maintenance) share a close relationship to the City’s broader economic goal of improving the aesthetic appeal and reputation of downtown neighbourhoods, others do not; for example, the sections of the licensing by-law that are proactively enforced, such as the section regulating taxis, are guided by an attempt to ensure safety within the industry. In this regard, not all proactive enforcement shares the logic outlined in City documents and shared by some planners and municipal officials. At the same time, the logic that guides street-level enforcement practices is nuanced and varies between officers. For example, while officer’s enforcement decisions are often grounded in “safety”, what constitutes safety and the measures needed to establish or maintain it varied between individual officers. In addition, despite being described as a zero-tolerance approach within the City documents, the techniques deployed by officers at street-level were less punitive in nature. While some municipal laws, for example, Schedule 25 of the licensing by-law and the laws regulating illegal dumping and nuisance, are enforced though a more zero-tolerance framework, officers often took a less punitive approach when proactively enforcing other municipal laws. As described in this Chapter, officers would often evaluate the context of the situation, the demeanor of the parties involved and the purpose of the law before making an enforcement decision. For example, officers proactively enforcing the City’s property standards by-law exercised a great deal of discretion when deciding what to list on Compliance Orders. In other cases, where property owners/occupants agreed to address compliance issues within a timely manner, some officers chose to not issue Orders. To a certain
extent, this less punitive approach is influenced by the nature of compliance itself. Issuing an Order does not guarantee an issue will be addressed. Likewise, the more Orders an officer issued, the more follow-up inspections he or she would have to complete.

In addition to multiple logics of proactive enforcement, it should also be noted how this type of enforcement is hindered slightly by internal bureaucratic politics. As was the case with proactive enforcement of the property standards, yard maintenance and parts of the licensing by-law, there was some debate amongst officers and supervisors over the extent to which officers should be actively seeking violations. This lack of clarity meant that some officers would engage in proactive enforcement as part of their reactive duties while others would not. Union rules over the authorization of overtime also influenced proactive enforcement of the nuisance by-law. Despite being noted within the City’s licensing by-law as a known problem in the area, the officers who decided to work an hour of overtime enforcing the nuisance by-law near Hess Village were instructed by management not to engage in such behaviour in the future. As noted above, a more thorough discussion of the limitations of proactive enforcement will be explored in the discussion Chapter. This study will now turn to an overview of reactive or complaint-based enforcement.
Chapter 7.0: Managing Conflict and Civility in Hamilton

“Constant” Noise and Peaceful Communities

Traveling through the outskirts of Hamilton, an officer discussed the general details of the noise complaint we were about to investigate. The complaint, placed three-days prior, alleged a group of dirt bikes and all-terrain vehicles (ATV’s) driven in a field behind the complainant’s property had become disruptive in the otherwise quiet rural community. As we approached the complainant’s property, the officer discussed the challenges of enforcing daytime noise. For example, despite being described as “constant”, the likelihood of the officer hearing the noise firsthand was unlikely. Given her workload and the time it took City clerk’s to process and assign the call, the investigation of daytime noise often took place several days after the complaint was made. Regardless of whether we heard the noise, the officer would call the complainant out of courtesy.

Upon arriving at the complainant’s property, the officer rolled down the windows and turned off the vehicle. After sitting in silence for several minutes, the officer proceeded to take out her City-issued cell phone to contact the complainant. Perching the flip-phone between her shoulder and cheek, the officer whispered “how it was always nice when a complainant left a contact number” (this was not always the case). Introducing herself, the officer explained how she investigated the complainant’s concerns but was unable to hear any noise warranting further action. As was standard procedure in most investigations, the officer gave the complainant her phone extension in case the noise continued to be an issue. After several minutes of back and forth, the officer explained rather assertively, how in order to pursue the issue any further the officer would have to hear the noise firsthand or have evidence suggesting the noise was ongoing.
During the drive back to the municipal law offices, the officer discussed how the complainant was unsatisfied with the outcome of the investigation. The complainant also mentioned several other issues related to the noise not exactly part of the officer’s “job description”. For example, the complainant suggested the people riding the dirt bikes and ATVs were likely trespassing. From the complainant’s viewpoint, the operators of the off-road vehicles were also driving recklessly, an obvious safety issue. The officer explained how as much she would like to help the complainant with these “other problems”, trespassing and reckless driving were more of a “police issue”.

Walking through the busy municipal law office, the officer continued to discuss the investigation, noting how the noise probably was disruptive adding how often these types of complaints are contingent upon people’s personal “level of tolerance”. On the other hand, having not heard the noise, there was little the City could do in investigations of this nature. Anticipating a follow-up phone call from the complainant, the officer explained how she would not officially “close” the investigation in the AMANDA system.67

* * *

As discussed in Chapter One, this dissertation’s primary goal is to examine how despite the presence of a neoliberal policy agenda clearly visible in the privately funded development projects restructuring Hamilton’s downtown as well as in some City documents, most municipal law enforcement is reactive, serving the function of managing neighbourhood conflicts rather than addressing the physical aesthetics of the downtown core. Providing empirical support to the

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67 In order to ensure confidentiality and protect the identity of research participants, the officer and members of the public (including complainants and parties under investigation) described in this chapter have been assigned random genders.
latter part of this argument by drawing on data gathered through ethnographic observations and interviews with municipal law officials, the central objective of this Chapter is to examine the role municipal law enforcement plays in managing disputes between neighbours and amongst businesses. Sharing a less direct link to the City of Hamilton’s broader economic agenda, this Chapter will demonstrate how the street-level enforcement decisions made by officers on a daily basis are instrumental in maintaining what was regarded as “civility” throughout the City. As this Chapter will demonstrate, municipal law related complaints are often shaped by changes to the social composition of neighbourhoods, local economic competition and competing ideas about what constitutes a clean, safe and peaceful urban environment. The investigations described throughout this Chapter will also demonstrate how the subjective and arguably antiquated nature of some of Hamilton’s municipal laws force officers to make difficult enforcement decisions as they attempt to uphold the law while maintaining civility.

With this in mind, the investigation described above highlights several key themes appearing throughout this Chapter. To begin, a significant portion of the investigations carried out by Hamilton’s municipal law enforcement officers are complaint-based. Indeed, on a daily basis law enforcement officers investigate dozens of complaints relating to noise, illegal dwellings, licensing violations and unsightly properties. The investigation described above also demonstrates the subjective nature of municipal law-related complaints. As acknowledged by the officer investigating the “constant” noise, complaints are highly dependent upon personal and/or neighbourhood specific “levels of tolerance”. Finally, the opening narrative demonstrates how in some cases municipal law officers are asked to address issues that fall outside of their jurisdiction. Despite the sometimes-limited power of municipal laws themselves, this Chapter will demonstrate how, in some cases, officers will work with issues that lie outside their legal
jurisdiction as they attempt to resolve neighbourhood conflicts throughout the City. This Chapter is organized into several different sections.

Drawing on data from interviews with municipal law officials and discussions with officers in the field, this Chapter’s first section provides a brief description of the general nature of municipal law related complaints, including how investigations are prioritized by the City of Hamilton. Most often related to disputes over zoning, noise and other types of nuisance, the second section discusses municipal law investigations involving businesses. Supplemented with data from interviews with municipal law officials, this section will discuss how businesses within certain industries file complaints in cases where they believe competitors are gaining an unfair advantage in the local economy by knowingly violating a municipal law. The third section of this Chapter will discuss how municipal law officers respond to daytime complaints and investigate potential violations of the City’s property standards, noise and zoning by-laws. This Chapter’s fourth section discusses the oftentimes-hostile situations officers find themselves in while enforcing the City’s noise by-law during the late night and early morning hours of the weekend. This will be followed by a brief discussion of how, in the process of investigating municipal law-related complaints, officer sometimes find themselves involved in matters most often dealt with by the police. Despite playing an important role managing civility throughout the City, this Chapter will conclude with a brief summary and discussion of the challenges officers face with when reacting to municipal law-related complaints in the City of Hamilton.
7.1 The General Nature of Municipal Law-Related Complaints

The “Signs” of Municipal Law Infractions

Walking down a busy downtown street late on a July afternoon, an officer and I discussed the intricacies of the City’s Sign By-law (#10-197). According to the officer, the by-law regulated all types of signs including permanent signs attached to buildings, temporary or mobile signs as well as large billboards. Outlining how all signs displayed in the City required a permit the officer explained how the law also regulates a sign’s size and location. With the exception of some guidelines for businesses, the by-law did not regulate the sign’s content. Explaining how the City had received numerous complaints about sign by-law violations along the block we had just ventured down, the officer noted how the complaints were specific, suggesting several “A-Frame signs” were blocking the flow of pedestrian traffic on the sidewalk.

Seeking relief from the hot July sun in the shade of a tree located alongside the street, the officer pointed out several clear violations of the City’s sign by-law across the street. Noting the complexity of enforcing the sign by-law, the officer explained how many of these businesses had been around for decades, most likely violating the by-law for some time now. Like other municipal laws in the City, for the most part, the sign by-law was not proactively enforced. Considering this, the officer was not inclined to speak with the businesses across the road, as they were unmentioned in the complaint. Pointing out several examples, the officer noted how some of the signs across the street added “character” to the block.

Midway through our conversation, we were approached by an older man who introduced himself as a “long-time” member of the neighbourhood. The man explained how he had placed “dozens” of complaints about signs along the street we stood on. Reassuring the man the City takes all
complaints very seriously, the officer thanked the man for speaking with him directly about his concerns.

Walking back to the municipal law vehicle, the officer stopped and inspected several A-frame signs. While unclear whether the man we spoke with was the complainant, the officer noted how some residents had a very good understanding of Hamilton’s municipal laws. In fact, several residents even felt obligated to file complaints whenever they encounter a potential violation. The officer noted how this can be “problematic” when most properties have some type of violation.

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Similar to municipal law enforcement in Toronto (see Valverde, 2012), in Hamilton, with the exception of a small group of dedicated proactive officers, the majority of municipal law officers are reactive. In fact, in comparison to the 4-5 dedicated proactive officers, there are between 40-50 officers working on any given weekday investigating municipal law-related complaints. As my time in the field revealed, the City of Hamilton receives dozens of complaints on a daily basis from local residents, businesses, City Councillors and on occasions, neighbouring municipalities. While in the field, I witnessed officers investigate a range of issues including complaints about “disruptive” children playing in local parks, backyard garbage, unlicensed businesses, excessive night-time noise, and illegal dwellings. In some cases, reactive investigations were straightforward. For example, while accompanying officers who addressed daytime noise we attended numerous construction sites where contractors were warned about the City’s noise by-law. Verbally warning construction site supervisors combined with a follow-up

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68 As discussed previously, a request was made to have access to municipal law statistics.
call to the complainant often allowed officers to “close” this type of investigation quickly. In other cases, by the time officers arrived to investigate complaints about long grass, weeds or garbage, potential deficiencies were already addressed. However, this was not always the case as other municipal law-related investigations revealed longstanding conflicts within neighbourhoods and amongst businesses. While the law itself is still relevant in these investigations, the officers responding to these neighbourhood disputes often became street-level mediators who attempted to minimize conflict. This chapter will provide several in-depth examples of these conflicts.

The City of Hamilton offers complainants multiple ways of bringing municipal law-related issues to the City’s attention including through an online form, over the phone and in person at the downtown municipal law offices. At times, some residents and businesses attempt to make verbal complaints during active investigations. On occasions when this occurred, complainants were always encouraged to lodge a complaint through one of the City’s formal channels. As one officer explained:

Let’s assume I am talking to a resident about some type of issue with their property… You’ve seen it firsthand, the first question they ask is ‘who complained?’ As soon as I tell them the City does not disclose who made the complaint, they [the property owner] want to complain about the others in the neighbourhood who may have called the City about them…the cycle would just keep going…the last thing I want to do is escalate problems.

This is not to suggest these in-person complaints are irrelevant to investigations. Discussions with accused parties and others in the neighbourhood often provided important background information that assisted officers in mitigating disputes. Encouraging residents and businesses to use the City’s formal channels was simply one way to ensure complaints were in fact “legitimate”. As one officer explained “telling people to call the City or go on the website to
complain is a way of making sure the complaint is legit...it’s not that I don’t believe people but having them call in just ensures the issue is a real issue...it’s kind of the legitimacy test”.

As noted by the officer enforcing the sign by-law, the City of Hamilton has several residents who file complaints on a regular basis. As one municipal law official explained, “we [the City of Hamilton] have an individual who emails a complaint in every day...they take their dog for a walk at 10 PM and I receive an email with a complaint about something in the neighbourhood by 11 PM”. Later in the interview the supervisor explained how “most of the complaints filed by this individual [the dog walker] are legitimate issues...we do on the other hand have some vexatious complainers who we [supervisors] deal with directly”. In cases where complaints are deemed vexatious, municipal law officials will inform complainants that the City is no longer investigating their concerns. According to one official:

We first want to validate their complaints to see if they are vexatious… there are some cases where people are just constant complainers. We send officers out and it is just a constant cycle of no violation, no violation, no violation… We document that and flag it in our database… And we let them know as well you’ve given us 23 complaints in the last four days and none of them have been violations of the by-law, so therefore we will not be responding to your calls.

While I was told that all municipal law related complaints are eventually investigated by the City, complaints lodged by City Councillors take priority. As one municipal law supervisor explained “there is an assumption that our elected officials [City Councillors] know the issues within their Wards...some people would rather call their councillor’s office to complain than speak with us directly”. Unlike Valverde’s (2012) findings, Hamilton’s municipal law officers were discouraged from discussing municipal law related complaints directly with elected officials. Likewise, contrary to what Valverde (2012) observed in the City of Toronto, at no time during my fieldwork did Hamilton’s municipal law officers attend properties where Councillors...
were also present. Instead, City clerk’s assign Councillor complaints to a specific group of officers. In other cases, complaints made by businesses and members of the public are investigated by officers who address specific by-laws (e.g., property standards, yard maintenance and licensing). Other officers take on a more generalist role investigating a broader range of municipal laws including those regulating noise and zoning.

Incidents of non-compliance related to matters of public safety were also treated as “high-priority”. For example, before a utilities company can turn off the gas to a property they first need to contact the City. As part of Hamilton’s Vital Service by-law (#05-322), officers attend the property informing those who are usually tenants that they are no longer required to pay their landlord for utilities. In turn, the City of Hamilton takes over the utilities bill, charging the property owner through the municipal tax role. In other cases, officers assess the risk to public safety based on the complainant’s description of the potential violation. For example, on one occasion an officer and I responded to a complaint about a chimney detached from a home. Arriving at the property and observing the chimney arched over the driveway, the officer expressed how he was “glad he dropped everything” this morning to address the concern. As the following section will describe, attempts to maintain safety throughout the City only represent a portion of municipal law-related work. This Chapter will discuss how officers investigate and attempt to mitigate business-related complaints.

7.2: Business Related Complaints: Noise, Licensing and Local Competition

The Noisy Exhaust Fan

Travelling through the downtown, the officer remarked how this next investigation, a complaint regarding a restaurant’s “excessively noisy” exhaust fan, would probably be our last before
breaking for lunch. Arriving at our destination, a mid-1900s two-story home located on a narrow side street in the downtown, the officer provided some further context on the complaint.

According to the complainant, a self-identified “long-term” resident of the neighbourhood, the restaurant backing onto their property had been recently renovated. While the restaurant itself was not new, because of the renovations, the recently installed exhaust fan was loud and disruptive.

Parked in the complainant’s small driveway, the officer rolled down the windows and waited for the vehicle’s hybrid engine to cycle into a near silent idle. Turning towards me the officer asked if I could hear the noise. Muffled by the vehicular and pedestrian traffic of the busy corridor cross street, there was a subtle hum emanating from the large industrial fan.

Exiting the vehicle, the officer and I walked towards the restaurant, eventually arriving in a small area near the rear entrance. The small space, home to a garbage bin and several stacks of neatly folded cardboard boxes (presumably from a recent food order), provided us a good opportunity to stand directly beneath the large fan. Starring up at the shiny new stainless steel exterior shell of the fan, the officer let out a sigh and motioned for me to return to the vehicle. Sitting in silence for several moments, the officer turned to me, pointed up to the fan and asked, “Well...would it bug you”? Caught off guard, before I could respond the officer began to discuss his dilemma. The noise by-law clearly states any noise “likely to disturb” is prohibited. Looking at me as if he was seeking my consensus on the resolution he was about give, the officer explained how the sound of the fan seemed reasonable given the noise coming from the street beside. On the other hand, the officer could see how living beside the restaurant and hearing the fan run during most of the day could be bothersome.
Having left the complainant’s driveway, we proceeded to travel back towards the municipal law offices. Prior to leaving the property, the officer decided he would contact the complainant and inform him or her that, while the exhaust fan did make some noise, it was not enough to constitute a charge under the City’s noise by-law. As the officer explained, his primary goal was to resolve the issue in a way that satisfied both parties. Assuming the complainant may not be satisfied with the proposed outcome of the investigation, the officer explained how he would return and speak with the business if needed. Revisiting the “dilemma” at hand, the officer noted how it might be a different story if the fan was also disturbing others in the neighbourhood. On the other hand, instructing the restaurant to “turn-off” the fan was not a viable option as doing so would pose obvious “issues in relation to health and safety”. Letting out another sigh the officer again turned in my direction and asked, “You see the dilemma right”?

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During my time in the field, a significant portion of the complaints lodged against businesses were related to excessive noise and other types of nuisance. This was often the case when businesses were located close to residential neighbourhoods. For example, on several occasions during the summer months officers investigated complaints about “foul” smelling waste containers outside of restaurants. On a different occasion, I accompanied an officer investigating a noise complaint filed against a chain-grocery store. The grocery store, located beside a high-rise apartment building, was allegedly allowing delivery trucks to idle in the loading bays in the early hours of the morning. The complainant, a resident in the high-rise, claimed in recent months trucks began arriving as early as 4:30 AM. Outlining the specific details of the City’s noise by-law and reminding the store manager about the importance of abiding by the commercial zoning requirements, the officer informed the manager how the visit
should be considered a warning and how any subsequent visits would most likely result in a charge. Mentioning how they would “contact head office”, the manager claimed they had little control over the trucks arrival time, adding how many delivery trucks were refrigerated and had to remain idling to maintain the quality of the “fresh food” inside. Business-related complaints sometimes required officers to investigate issues technically outside of municipal law’s jurisdiction. For example, during the summer of 2014 the City received multiple complaints about construction noise coming from the CN rail yard. The rail yard, an important piece of Hamilton’s early industrial growth, was being modified to accommodate passenger trains as part of the downtown’s new Go Station. Like most railways throughout Canada, the federal government owns the rail yard land. Given Canada’s legal hierarchy, municipal laws have no legal jurisdiction on federal land. Despite this, municipal law officers visited the rail yard on numerous occasions, speaking with a site manager who was sympathetic to the noise complaints while well aware of the impunity the federal land granted his workers. Notwithstanding the lack of legal authority, during follow-up calls, complainants were always encouraged to contact the City if the noise persisted.

Similar to the restaurant’s exhaust fan and the case of the noisy delivery trucks, complaints against businesses located within residential areas often coincide with changes to business practices. Not unlike the examples discussed above, a significant portion of these complaints had to do with noise. Despite the zoning prohibition, during the summer months some restaurants, cafes and bars choose to play music to entertain their guests. These seasonal changes to business practices lead to regular complaints. During the summer months I also accompanied officers through the grounds of several outdoor festivals to investigate whether organizers had received the necessary permits allowing for short-term exemption from the noise
by-law. While in all cases organizers had acquired the necessary permits, these permits did little to appease the residents making the complaints. After speaking with an irate resident about a festival playing loud music, one officer explained how minor changes to “neighbourhood patterns” could throw off the “balance of the neighbourhood”. As the officer discussed:

People kind of get used to certain things happening on their street...a business or a guy down the street might be loud sometimes but it’s part of the neighbourhood...people tolerate it...but it’s when things change that people get upset...we [the City of Hamilton] aren’t contacted when the change is good.

While changes to a business or business practices (i.e., a new exhaust fan or delivery trucks arriving earlier than normal) are at the core of some municipal law-related complaints, changes to the social composition of neighbourhood also influences the types of complaints the City receives.

*New Neighbours and Old Noise*

Slowing the municipal law vehicle to ease the crossing over several sets of railway tracks, the officer explained how we were entering some of the oldest neighbourhoods in the downtown core. Slowing the vehicle to a near crawl, the officer attentively scanned for the correct property address. While the complainant noted the name of the business, the officer wanted to ensure he was speaking with the correct business owner/operator. As the officer explained, the industrial area we had now entered was home to other “similar” businesses.

Walking towards the large industrial shop, the officer discussed how the investigation should be very straightforward. As outlined in the complaint, a local resident whose property backed on to the shop’s massive industrial yard was concerned with the amount of early morning noise. As we got closer to the garage’s bay doors, the officer explained how, while the discussion with the
owner would be more educational, he also hoped to establish when employees began working in
the morning. Like most industries, this type of business was restricted from making any type of
noise between 10 PM and 7 AM.

After making small talk with the two men working on a large truck, the officer requested to
speak with whoever was in charge of “daily operations”. Escorting us down a narrow hallway,
we eventually arrived at a small office. Knocking on the half-open door, the officer introduced
himself as being “with the City”, continuing into a familiar speech about how he was there to
“chat” about the City’s noise by-law. Seemingly unimpressed by the presence of the officer, the
man sitting behind his desk peered at us both and responded with “oh yeah”? Leaning against
the wood panelled walls of the small office, the officer informed the man how there had been a
complaint about the level of noise coming from his yard in the early hours of the morning.
Responding in the same unimpressed tone as we were greeted with, the man noted he was “well-
aware” that “someone new” in the neighbourhood did not like the noise his industrial business
was generating. He continued by suggesting that like he had told them (presuming it was the
same person who complained), his “guys” get here around 7 AM. Empathizing with the man,
the officer noted how today’s visit was about education only, repeating the general restrictions of
the by-law. Laughing under his breath, the man smirked at the officer and asked “do you two
know how long this yard has been here”? Before the officer could place his guess, the man
loudly informed us how “the yard’s been here for over a hundred years...long before I [the yard
manager] was born and certainly before the houses were build”. Sensing his tone was a little too
aggressive, the man lowered his voice offering what seemed like a compromise suggesting
“listen, I am aware folks move into this neighbourhood wanting peace and quiet, but I have a
business to run here...this area is industry...we [referring to his business] are industry. Putting

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both of his hands up, almost like a symbolic waving of the white flag, the officer reiterated how he was just “doing his job” noting how “people complain and we [municipal law] investigate. Having already put his head down and returned to his work the man replied with a simple “thanks”.

Walking back to the vehicle the officer discussed how he would call the complainant to inform them of the visit to the yard. This would also provide an ideal opportunity to “educate” the complainant on the City’s noise by-law as well as how the industrial property was permitted to make “a reasonable amount of noise” during the day. As the officer explained, in some cases simply informing the complainant the City was investigating their issue was good enough to provide some type of “resolution”. However, in this particular case, the officer doubted this reassurance would satisfy the complainant. Worst-case scenario, he might have to return to the property before 7 AM to see what time work began. While the officer doubted the workers at the yard started before 7 AM, a second visit (where there was no noise) would be enough evidence to “close” the investigation.

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The logic guiding most business-related investigations was to establish some type of resolution between complainant and the business in question. This was especially true in situations when the complainant lived in close proximity to the business under investigation. Officers would rely on an educational approach when resolving these types of conflicts. This educational approach served a dual purpose, informing residents about the subjective nature of “qualitatively defined noise” while acting as a subtle warning to businesses. Officers were also conscious of how more punitive approaches (e.g., pressing a charge) had the potential to escalate
or, as one officer put it, “fuel the fire” between a business and a neighbour. This logic led officers into a type of mediation role, where they would attempt to strike compromises between residents and businesses. This often involved discussing with business owners the importance of not only abiding by City by-laws but also how they “shared the neighbourhood” with others. In turn, residents were reminded how businesses were an equally important part of their neighbourhood.

The Silent Tent-Sale

Arriving at the plaza on the Friday afternoon before the weekend long tent-sale was advertised to begin, an officer and I observed several outdoor speakers and a makeshift DJ booth located in the business’s parking lot. The complainant, a resident who lived in the area, was concerned that like past tent-sales, the neighbourhood would have to endure an unnecessary amount of noise coming from the large speakers located in the business’s parking lot. Despite arriving a day before the tent-sale was scheduled to begin, the speakers were already being put to good use, loudly providing a radio-friendly, Top-40 soundtrack for the workers setting up for the sale. As we walked closer to the source of the noise, the officer noted how the complainant must have received a flyer for the tent-sale in the mail and filed the complaint in the days leading up to the sale.

After introducing herself and reviewing the “likely to disturb” clause in the noise by-law, the officer informed the store manager how the music needed to be immediately turned down. After having an employee turn down the music (drastically decreasing the volume), the manager put forth a subtle protest outlining how in previous years the music had been a “big customer draw”. Reiterating how the City had received a complaint, the officer also requested to see business
permits for the large tents erected throughout the parking lot. Without hesitation, the store manager explained how they did not need permits as the lease agreement permitted the tents to be there. After several tense minutes of discussion, the officer informed the store manager how without permits, no matter what the conditions specified in the lease, the tents were illegal and could result in significant fines. Pleading with the officer, the store manager discussed how they had spent thousands of dollars in advertising and additional inventory for the event.

Leaving the parking lot, the officer and I returned to the office and discussed the situation with a supervisor. After the supervisor placed several calls to City Hall, it was agreed that on the condition the store manager fax over the required documentation and paid the permit fee, the City would allow the tent-sale to go forward (despite the fact the permits would not be issued until after the sale was over). Back at his desk, the investigating officer called the store manager outlining conditions of the agreement adding how this type of situation was rare and had required “a lot of extra legwork”. After repeating the conditions of the agreement, the officer added how it was in the business’s best interest to refrain from playing music during the tent-sale. Having hung-up the phone, the officer noted how this was a “good compromise” for the business and the complainant. Reclining back into her chair, the officer noted how the business could have the tent-sale and she could call the complainant and inform them how they could enjoy peace and quiet, as the tent-sale would not be playing music.

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While a portion of the complaints lodged against businesses came from residents (sometimes through a Councillor), this was not always the case. For example, it was not uncommon for businesses to file complaints about other businesses (usually businesses in the
As this type of investigation revealed, complainants would contact the City when a competitor was potentially violating a municipal law, and in doing so, gaining an advantage in the local economy. As one municipal law official outlined:

For some people [residents] it [a complaint] relates to better living…some people just don’t get along with their neighbors and will complain about anything they are doing…some [residents] are really passionate about the City… But businesses, their complaints are always their competition, so for example if they are zoned for a certain type of business and someone is operating illegally then it is a matter of business being taken away from them… So it is hitting their pocketbooks.

These types of business-related complaints often came from the restaurant and night-time entertainment industry. As one official explained, “you have food businesses complaining at each other, that was a recent one [a complaint], where one food shop is saying that the other one across the street isn’t licensed correctly…They are calling each other because they are vying for business”. When asked to discuss the general nature of business-related complainants a different municipal law official reflected how:

We get businesses who complain more from a competitive nature… ‘how come I am licensed for this, and they are not licensed and they do the same thing?’ We had that in the outset with food trucks, with one tattling on the other one. That seems to have subsided and its all one big happy family now, but we still get complaints from other industries. …the bars especially, the one thing with that is, they pay the paid duties [the police fees]. So if you have bad bars, they’re influencing how many police are there, which ups the costs for the paid duty fees for the whole area.

As the food truck investigation described below demonstrates, there still are cases where the “big happy family” complain on their competitors.

*Justice Served with a Side of Illegal French Fries*

On route to investigate a complaint about an illegal food truck, the officer discussed how the City had attempted to “catch-up” with this particular food truck for some time. Unlike brick and mortar restaurants, the mobility of food trucks provided obvious enforcement obstacles. As the
officer explained, the City had received numerous complaints about this particular “unlicensed”
truck, all of which came from others in the restaurant/food truck industry (noting how members
of the public would not know the difference between a licenced and unlicensed truck). Providing
additional context, the officer explained how the food truck industry in Hamilton had grown
rapidly, catering to the lunch crowd in the downtown and City’s street festivals.

Arriving at our destination, the officer pulled into the parking lot, reversing into a spot located
about 50 metres away from the food truck. Turning the vehicle off, the officer explained how
this spot was ideal, as the two vehicles parked on either side would block the view of the
municipal law logos on the side door. Sitting motionless in the front seat, the officer quietly
explained how in order to press a charge we would have to witness the truck’s operator serve
food to a patron. Within minutes, a middle-aged man approached the truck, stopping several feet
in front of the large drive-through style window. Engaged in what appeared to be a deep level of
thought, the man stood, arms crossed swaying back and forth. After several moments of
contemplation, the man engaged the food truck operator appearing to place an order. Contently
watching the interaction, the officer explained how it was important we also witness an exchange
of money. Likewise, to demonstrate the truck was in fact “operational” the officer also wanted
to witness the exchange of food.

After several more minutes of waiting, the food truck operator passed a steaming cardboard tray
of French fries through the window. Satisfied the truck was operational, the officer and I walked
briskly across the parking lot towards the food truck. Greeting us in a boisterous tone the
operator asked, “What he could get us”? After noting she was not hungry, the officer kindly
asked the food truck operator to see the City-issued business licence. Pausing for a moment and
again offering us several items from the menu, the truck’s operator explained how they were in
the process of getting “papers” noting how slow those “folks down at City Hall can be”.
Clarifying the operators reference to “papers” was in fact the business licensing, the officer
(assuming the operator had not applied for a licence) informed the truck’s operator how she was
going to return to the City vehicle and verify the operator’s application. On our way back to the
vehicle, the officer explained how it was a possibility the operator applied that morning for a
licence. However, even if this was the case, the officer had also noticed how the truck’s fire
extinguishing system, a crucial component to any food truck, did not have the required
endorsement from Hamilton’s fire services. In addition, the truck was not displaying the
required Hamilton food safety certificate. Considering this, it was doubtful the operator had
secured a proper business licence.

Back in the vehicle, the officer pulled out his notebook and jotted down the early details of the
investigation. As the officer continued to write, I watched as the operator exited the food truck
and proceeded to walk in our direction. Careful not to disturb the officer as she wrote, I casually
mentioned how “we had a visitor”.

With the operator now standing directly in front of vehicle, the officer proceeded to exit the
vehicle. Following the officer’s lead, I did the same. Before the officer could say anything, the
food truck operator, told us that he had not attempted to get any “papers” for the truck. After a
lengthy discussion about the truck’s multiple violations, including the lack of approval from
Hamilton Fire and Public Health, the officer informed the operator how they were to “cease
operations immediately”. Seeming unfazed by the severity of the situation, the operator asked
the officer if they needed the same types of “papers” to operate in neighbouring municipalities.
The officer responded with a simple “yes, you’ll need papers”. Unaware of the officer’s
intentions to press a charge, the operator returned to the food truck.
Returning to the side of the food truck, tickets in hand, the officer again informed the operator how they were in clear violation of several City by-laws as well as other laws pertaining to food and fire safety. Passing the tickets through the same take-out style window where food was handed to a customer roughly 30-minutes prior, the food truck operator’s anger with the officer’s decision to ticket his food truck was intensified when he saw the over $400 worth of fines. Explaining the breakdown of the ticket’s set fine (administrative and court fees) the officer went on to explain how the operator could pay the ticket, seek early remediation or go to court. After several more minutes of discussion and another warning how the man needed to “cease operation”, the officer and I returned to the municipal law vehicle. Sensing the operator might further dispute the tickets, we left the parking lot and travelled several kilometres away so the officer could finalize her notes. On route to our new location, the officer reflected on the multiple violations we had just encountered noting how if it was not for the complaint, the City might not have “caught-up” with the illegal food truck. As the officer went on to explain, the fact the food truck was unlicensed and lacked the proper health and safety certifications, therefore putting the public in danger, was more than enough to justify the tickets.

* * *

As discussed by municipal law officials and supported by my observations in the field, the food truck business is only one example of an industry that lodged complaints against competitors. For example, during the spring/summer of 2014 the City investigated an allegation that a vendor at a local farmers market was purchasing fruit, produce and other goods at a grocery store, repackaging it and selling it as “locally grown”. As one of the investigating officers explained, this type of “insider” information could only come from another vendor. Negating the purpose of the farmers market and misleading customers, the accused vendor was
most likely also making a much higher profit margin in comparison to those who were actually
growing the products they sold. As the officer explained, Hamilton’s farmer’s market by-law
(#10-209) allows the City appointed Market Supervisor to set the ratio of farm-based or self-
produced products (e.g., art or clothing). Drawing on the Province’s Farming and Food
Production Protection Act (S.O. 1998, C.1), suggesting vendors at farmer’s markets sell
“primarily” products they have grown or produced, Hamilton restricts vendors from selling more
than 30-40% of goods they do not produce (or grow). With this in mind, the officer also noted
how enforcing these restrictions was nearly impossible. For example, the officer would have to
witness the vendor purchase a product from another store, follow the vendor to the market and
then be sure the products for sale in the market stall were in fact the same products purchased
elsewhere. Given the challenges associated with the investigation, the officer decided to
approach the vendor in question to discuss the allegations and inform them that they could incur
a fine of $10 000 for contravening the City’s farmer’s market by-law.

As several municipal law officials discussed during the interview component of this
project, similar to the food truck industry and farmers market investigation, it was not
uncommon for the restaurant and bar industry to file municipal law-related complaints against
competitors. For example, on one occasion I accompanied an officer to a bar to investigate a
complaint about an “illegal barbeque” being used to serve food in the late night hours. While not
providing specific details on the complainant, the officer explained how the concern had been
raised by another “similar” establishment. Although the bar’s licence permitted the use of the
barbeque, the owner suggested his competitors were “probably jealous” about the amount of
business his late night “grilling” generated. As the following narrative suggests, even small
changes to bars and restaurants do not go unnoticed by competitors.
Patio Games

Walking down one of Hamilton’s busy downtown corridors, the officer discussed how our upcoming investigation was going to be an “interesting one”. As the officer explained, the City had received a complaint alleging a bar, whose entrance faced a busy street, had illegally modified the capacity of their patio adding additional room for more patrons. The complainant had also noted how the construction had taken place without a permit. As the investigating officer explained, the complaint was filed by another similar business “in the industry”. As we approached the bar, the officer explained how these types of investigations were both “complicated” and “time consuming”. At the same time, it was important businesses abide by the law. Repeating what I had been told by other officers, this officer in particular was “well aware” of the importance of consistent enforcement. Using the taxi industry as an example, the officer noted how “it doesn’t take much” for some industries to fall into what was believed to be widespread “non-compliance”. Relating the conversation back to the investigation at hand, the officer noted the “problems” the City might encounter if every bar starts expanding patios.

Upon arrival at the establishment, it was clear from the newly installed railings the patio had been expanded, adding, by the officer’s approximation, 15 square feet of additional space. Kneeling beside the patio, the officer also pointed out several small holes drilled in the concrete where the old railing used to be located. Given the time, just after 10 AM, the bar’s door was locked and all of the interior lights were off. Placing his hand above his eyes to shield the glare, the officer gazed through the tinted front windows, verifying the bar was empty. Appearing somewhat perplexed by the thought of a bar expanding their patio without a building permit and most likely violating their license, the officer decided to issue a Compliance Order.
Later that week, while travelling to a non-related investigation, the same officer discussed some of the “new details” of the illegal patio expansion. After we left the bar, the officer called the establishment’s owner to follow-up about the Order he had issued. Noting how the owner was “not impressed” with the short timeline the officer had given to return the patio to its original state, the owner also informed the officer how the modification had been done to satisfy the establishment’s liquor license, allowing patrons to walk freely back and forth between the bar and patio without stepping on public property. As the owner had explained, the old patio layout required bar staff to carry drinks from the interior of the bar to the patio. Still noticeably shocked by the owner’s reasoning, the officer discussed how he gave the owner a “stern talking to” about the ramifications of doing construction without a permit but had decided to back off on the request to change the patio back to its original dimensions. These details were also conveyed to the complainant, reassuring them how the modification, while technically illegal, was done to satisfy the establishment’s liquor license.

*   *   *

When investigating complaints filed against businesses by competitors, enforcement practices were primarily believed to be shaped by attempts to uphold the laws, maintain industry compliance and ensure fairness within the local economy. The officers I accompanied went to great lengths to address business related complaints without the assistance of supervisors and managers. As my time in the field revealed, many of Hamilton’s municipal law officers have an incredibly in-depth understanding of the local laws they enforce. However, there were occasions when officers relied on the assistance and advice of management. This most often occurred when investigations overlapped with City politics. The zoning restrictions banning bars and restaurants from providing music to a commercial patio is a noteworthy example.
During the spring/summer of 2014 Hamilton received complaints about several bars/restaurants purposely violating the City’s zoning by-law by providing entertainment to a commercial patio. One restaurant/bar in particular received a significant portion of these complaints. In an effort to gauge how many bars and restaurants were in non-compliance with the zoning restrictions, I took part in several proactive “educational” blitzes throughout the City. As discussed previously, few bar/restaurant managers and door attendants questioned the obscurity of the zoning law itself. Instead, most were concerned the bar(s) knowingly violating the law were gaining an unfair advantage in the locally competitive nighttime economy by ‘poaching’ customers from those abiding by the laws. During the deliberations about an appropriate course of action against those in violation of the zoning law, the City also received noise complaints from local residents about the bar(s) already under investigation. More so than other investigations, the decision to enforce the section of the zoning by-law prohibiting entertainment to a commercial patio became the topic of debate amongst officers, managers and other municipal law officials. At the heart of the debate, one that travelled far beyond the walls of the municipal law offices into the chambers of City Hall, was whether the zoning laws, originally drafted in the 1950s, were appropriate to enforce some 60 years later. Other officers, supervisors and managers discussed how the zoning law was potentially detrimental to economic growth. While some felt the issue should be addressed by enforcing the City’s noise by-law, a law that could be enforced whenever a bar/restaurant was producing noise likely to disturb (even multiple times in one evening), others felt differently. The alternative was to pursue a resolution under the City’s zoning by-laws, meaning a provincial court judge would decide the appropriate fine (if any) for any non-complying bars or restaurants. In the end, the evidence in the case(s)
was sent to the City’s legal department who decided to pursue charges through Hamilton’s zoning by-law.

As this section has discussed, business-related complaints often coincide with changes to business practices. In other cases, changes to the social composition of the neighbourhood also influence some complaints. On the other hand, some business-related complaints come from others in the industry. As this section demonstrates, a majority of these types of complaints relate to local economic competition and the perceived advantage a competitor has gained by violating municipal law. While there are cases when fines are issued, a majority of business-related investigations result in less punitive measures such as Compliance Orders and verbal warnings. This Chapter will now turn to a discussion of daytime noise, nuisance and property standards enforcement.

7.3 Keeping the Peace: Daytime Noise, Nuisance and Property Standards

*Routine Compliance and Household Garbage*

Pulling out of the parking garage, the officer discussed the general plan for the morning. Having issued several Compliance Orders earlier in the week under the City’s yard maintenance by-law, the next several hours would be dedicated to completing follow-up visits to ensure compliance. On route to the first stop, the officer explained how the City receives a significant number of complaints about garbage and excessive waste, noting how these complaints often come from others in the neighbourhood. Similar to the other officers I accompanied, this officer explained how despite “the significant amount of complaints the City receives” most people comply with City by-laws.
Arriving at an apartment building located in the downtown, the officer stopped the vehicle in front of two large dumpsters. “Impressed” by the cleanup, the officer explained how several days prior the area surrounding the dumpsters had been “littered” with garbage bags. Sympathizing with the building’s manager, the officer discussed how large dumpsters such as these (pointing to the dumpsters) were at times used by members of the public who did not live in the building as a “dumping ground” for their own personal waste. The officer theorized the City’s “one-bag limit” also contributed to the problem. Shifting the vehicle into drive, the officer noted how regardless of how the garbage got there, his job was to investigate the complaint and make sure the buildings management complied with the Order.

Over the next several hours we completed five follow-up inspections, all of which the residence or property manager’s had complied with the Order issued several days prior. On route to our last inspection, the officer explained how the nice part of investigating yard maintenance complaints was the ease of bringing properties into compliance. In most cases, (as witnessed throughout the morning) issuing an Order was usually enough to persuade property owners to address yard maintenance issues.

As we approached our final follow-up inspection, the officer noted how, unlike the previous stops, this next property was one he and I had visited before. “To get me up to speed”, the officer outlined how this particular property was the “sore thumb” of the neighborhood. Unlike the other neatly kept properties on the street, the property we were revisiting had bags of garbage in the driveway, building materials in the backyard and an inoperable vehicle in the driveway. Stopping in front of a neighboring property, the officer reminded me how he had decided not to include the inoperable vehicle in the compliance Order, noting how it was not mentioned on the original complaint as well as how “technically” his role was reactive not proactive.
Exiting the vehicle and approaching the property, it was clear the garbage bags had been removed from the driveway. Walking into the backyard, we could also see how some, but not all of the building material was removed. Wishing the homeowner had “done a little more in the backyard”, the officer was happy with the progress. Returning to the vehicle, the officer took out the City’s copy of the Order which had been issued several days before. Tapping his pen against the Order, the officer discussed how he would contact the property owner about what additional steps needed to be taken in order to bring the property into “total” compliance. Edging the vehicle forward, we drove slowly past the property we had just visited. Passing a small row of pine trees acting as a natural barrier between the property in question and the house beside, the officer came to an abrupt stop. Peering over my shoulder and through the passenger-side window back at the property, the officer tapped me on the shoulder, directing my attention to the large window located at the front of the house. Unlike the perspective provided during the walk-through of the backyard, the view from inside the vehicle provided a clear view of a large pile of garbage bags (presumably the bags from the driveway) inside of the house. Shaking his head in disbelief, the officer turned to me, suggesting how he would speak with the homeowner about how they disposed of the garbage bags in the driveway adding that “technically” the property owner had complied with the conditions outlined on the Compliance Order.

*  *  *

As noted by the officer performing the compliance check-ups and by numerous other officers, most Hamiltonians comply with City by-laws. Even in cases where violations took place, establishing compliance with some City by-laws can be straightforward. For example, in some cases, complaint-based investigations can be resolved by simply speaking with the accused property owner and/or issuing a Compliance Order. Similar to proactive enforcement, officers
who investigate complaint-based yard maintenance and property standard issues demonstrated a willingness to work with property owners in order to bring non-complying properties into compliance. This was particularly true when a deficiency did not pose an immediate threat to public safety. Similar to the investigation described above, officers were hesitant to charge a property owner who had not met all of the conditions outlined on an Order but had made marginal strides towards compliance. As an officer explained “some properties can’t be cleared up overnight...what’s important is the owner is making an effort to bring the property into compliance”. While seeking compliance through incremental improvements did not always appease some complainants, officers commonly expressed how the long-term neighbourhood benefits outweighed the need to “come down hard” on those making an effort to improve their property. While complaint-based investigations involving yard maintenance and minor property standards issues were often addressed in a straightforward and almost routine manner, other types of investigations were more complex. A dispute between neighbours over sharing the cost of a “new” fence provides a noteworthy example.

**The Fence that Stood the Test of Time**

Parked on a side street, an officer and I walked in the direction of the complainant’s house. As the officer explained, the City did not like getting involved in residential fencing disputes as most were “civil”, not by-law issues. At the same time, the officer explained how fences were regulated by several municipal laws including the fence by-law, (#10-142) cost of division fences by-law, (#08-018) property standards by-law, (#10-221) and the zoning by-law (#05-200). Now standing in front of the complainant’s house, the officer noted how she was primarily concerned with section 8.2 of the property standards by-law outlining how any fence insufficiently secured, rotten or warped needed to be either “removed, repaired or replaced”.

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Even if the fence needed to be torn down, nowhere in the by-law did it specify the complainant could force their neighbour to split the cost of a new fence. While the removal cost would have to be split between neighbours, the by-law did not require the fence to be replaced. As the officer noted “lots of people in the City don’t have fences and lots of them get along with their neighbours”.

Walking alongside the post-World War II era home, the officer unlatched a small gate allowing me to enter the long and narrow backyard. Deciding not to knock on the complainant’s door and not wanting to bother the neighbour, the officer noted how the inspection “shouldn’t take too long”. Standing in the middle of the yard, the officer noted how it was clear the complainant had spent “a little coin” improving the backyard of their property. In addition to a new deck and several small gardens, it appeared the complainant had also created a small sitting area furnished with newer looking chairs and a table. Switching her attention to the fence, the officer proceeded to walk the length of the yard, running her hand along top of the one of the supporting wooden beams. Returning to the mid-way point of the fence, the officer leaned her foot against one of the vertical supports, pushing with considerable force. Turning to me, the officer smiled and remarked how “the thing [the fence] didn’t even budge”. Joining me in the middle of the yard, the officer surveyed the fence from left to right. Offering her assessment the officer suggested “the fence was old, constructed with about 5 different types of wood [including several railway ties] and was not exactly pretty”. Shaking her head, she continued by adding, “Whoever built the damn thing knew what they were doing because that fence is not going anywhere”.

Standing on the sidewalk in front of the two neighbouring properties, the officer explained how she would call the complainant to tell them the fence was complying with all of the City’s fencing by-laws. Anticipating how the conversation would play out, she noted how the
complainant was attempting to improve their property. On the other hand, the City’s fencing by-laws were not put in place to force people’s “home improvement agenda” on their neighbours. Continuing the conversation as we ventured back to the vehicle, the officer outlined the “silver-lining of the situation” suggesting how with the approval of the neighbour, the complainant could construct a new fence but would have to pay for it themselves. Imagining what this conversation might look like in my head, I asked the officer “what if the complainant’s neighbour is happy with the existing fence”. Stone-faced the officer responded, “in that case…it stays”.

* * *

In comparison to business-related investigations where the complainant was often a competitor in the same industry, investigations involving residential properties where complainants were also residents, shared a less direct relationship to local economics. This is not to suggest people are not concerned with the long-term value of their properties. While attending public meetings I listened to numerous depositions from local residents concerned with how City planning decisions involving development, transit and the potential relocation of social service hubs could negatively affect property values. However, these economically grounded concerns were less evident when officers responded to municipal law related complaints involving neighbours. Near the end of my fieldwork, I asked an officer about his thoughts on the issue. After careful deliberation, the officer explained:

People do care about property values…but they also care about being able to enjoy their home and neighbourhood…when people call us, [municipal law enforcement] do they say my neighbours got a bunch of garbage in his backyard and it’s bringing down the value of my home…no, they might be thinking it, but they’re usually more concerned about how every time they want to play with their kid in the backyard they’ve got to look at…and probably smell a bunch of garbage.
While it is important not to completely disregard property values as a factor influencing complaints, a significant portion of investigations involving neighbours were framed by quality of life concerns. Given the nuisances found in any urban setting (e.g., traffic/construction noise, congestion and litter), on paper some of the complaints the City of Hamilton investigates seem so inconsequential and mundane it is a wonder the complainant even took the time to file the complaint. On the other hand, as highlighted by legal-geographers and witnessed during municipal law investigations, people’s perceptions of space are shaped by highly conceptual and subjective ideas about what makes a “good” neighbourhood, a well-kept lawn or an acceptable level of noise (see Soja 1996; Purcell, 2002; Helms, 2008). While people sharing the same block might have similar ideas about what is normal, unique and/or tolerated in the neighbourhood, as time passes and new people move in, neighbourhood norms become less certain.

**Unplugging the Neighbourhood DJ**

On route to investigate a noise complaint in an older downtown neighbourhood, the officer discussed how this initial visit was primarily about gaining a better understanding of the complainant’s concern. Travelling past full blocks of century homes, as we approached the accused address the officer remarked how he had not investigated many complaints in this particular neighbourhood. Parked across the road from a large two-story home, the officer elaborated on the general nature of the complaint. According to the complainant who was relatively new to the neighbourhood, the accused, a long-time resident was playing loud music for extended periods of time. Having built a strong rapport with the officer, I asked how the complainant knew the accused was a long-time resident of the neighbourhood. The officer explained how unlike many neighbourly disputes, the complainant had made an effort to resolve the issue prior to filing the complaint.
Standing in front of the large home, the officer immediately noted the large “boom box” located on the porch. Although the radio was silent when we arrived, the officer pointed out, how despite its age, the radio/cassette player was probably more than capable of playing loud music. As the officer recalled the details of a different investigation where music from a similar sized radio had travelled “several blocks” we were approached by an older man. After several minutes of small talk about the unseasonably warm July weather, the officer asked the man if he lived in the house we were standing by. After clarifying the man was in fact the owner of the home, the officer probed further asking if he owned the radio located on the porch. Responding with a cheerful demeanour, the man proudly informed the officer that he was the radio’s owner.

Pausing for a second, as if he knew the man might not respond too well to the news, the officer explained how he was there to investigate a noise complaint. Emphasizing today’s visit was about “educating” him on the by-law, the officer explained the allegations. Unlike many of the accused in other investigations who would immediately deny this type of allegation, the man responded almost immediately, admitted he was the one in the neighbourhood playing the music. Sensing he was not grasping the subtle hint he should refrain from playing music moving forward, the officer outlined the “likely to disturb” clause adding how the noise by-law was enforced 24-hours a day. Concluding his well-articulated overview of the noise by-law, he warned the man if he returned and the radio was playing loud music he would have no choice but to issue a ticket. Pleading with the officer, the man explained how he had lived in the neighbourhood for years and been playing “his music…good music” for a very long time. Sympathizing with the man’s long neighbourhood tenure, the officer reiterated how up to this point the City had never received a complaint. The recent complaint changed everything. After
several more minutes of discussion and a reminder, how he should consider our visit a warning, we returned to the municipal law vehicle.

Roughly two weeks later, the officer informed me how he contacted the complainant in the days following our initial visit. The complainant, who repeated how they did not want to upset the older man, reluctantly reported how the loud music had continued. Allowing several additional days to pass, the officer revisited the house and upon arrival, experienced the music firsthand. Noticeably torn by the decision, the officer explained how he had little choice but to issue a ticket adding how the man made no effort to comply.

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As new residents migrate into the downtown and as the social composition of Hamilton’s neighbourhoods continue to change, municipal law officers find themselves in uncomfortable situations when enforcing of certain laws. Several officers reflected how long-time neighbourhood traditions and minor incidents of nuisance tolerated for years often become the focal point of investigations as new residents move in. This is not to suggest complaints related to changes in neighbourhood norms only take place in older districts of the City. In addition, it would be incorrect to assume newer neighbourhood residents are the only ones making complaints. Similar to how businesses self-police others in the industry, extended neighbourhood tenure and the in depth local knowledge of residents act as what Jacobs (1961) referred to as the eyes on the street, monitoring their neighbourhoods for signs of municipal infractions. This type of localized neighbourhood knowledge on the behalf of residents was often utilized to inform the City about zoning infractions involving illegal dwellings.
During my time in the field, I most often accompanied officers during the early stages of illegal dwelling investigations. While there were occasions when an unrelated investigation, for example a property standards complaint, led to the discovery of an illegal dwelling, Hamilton does not proactively seek out this type of zoning violation. With this in mind, officers explained how a significant portion of zoning investigations, specifically illegal dwellings originate from complaints filed by those with a keen knowledge of their local neighbourhood. As one officer put it:

Most people could walk through a neighbourhood other than their own and not be able to identify the illegals [illegal dwellings]…sure some people would pick up on separate entrances and multiple mailboxes [common signs of illegal dwellings] but most wouldn’t know otherwise. Ask them to do the same in their neighbourhood and they probably would have no problem telling you who is renting out a basement, who has got a tenant and who has chopped their place up.

As discussions with several different officers suggested, converting a single-family dwelling into a place suitable for multiple families or tenants often takes a significant amount of structural modification by property owners. While not always the case, it was often during the illegal conversion stage when the City would receive complaints.

“There’s no way this place is a triplex”

Parked several houses down the block from the property we were about to inspect, the officer discussed some of the general details of the investigation. As the officer explained, she had visited the property under investigation several days before, leaving a business card with the

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69 Depending on the complexity of the investigation, some cases can carry on for years, as once a dwelling is deemed illegal, owners must evict tenants and convert the property back to its original layout. Regardless of whether the City of Hamilton decides to press a charge, converting an illegal dwelling back to its original form, requires building permits, inspections and perhaps most importantly a significant amount of time.
“occupant” of the house. The occupant who rented “part of the house”, promised to pass along the card to the property owner. In the days following the original visit, the property owner contacted the officer agreeing to allow her access to the house. According to the complainant who resided in the neighbourhood, it had been converted into a duplex roughly a year ago. Speaking with the complainant, the local resident explained how the conversion had bothered them for some time. While the complainant had tolerated the extra cars on the street, recent construction on the home led them to believe the house was being renovated in order to accommodate a third dwelling. Concerned for the integrity of the “family-friendly neighbourhood”, the thought of an additional tenant was enough to file a complaint to the City. Having left the vehicle, the officer and I proceeded towards the property in question. Expressing her admiration for the 1950s small brick houses lining either side of street, the officer doubted the accused could “squeeze” a third apartment into a 1400 square foot home.

Walking down the driveway of the property under investigation, it was immediately clear by the sight of a radial arm saw, stack of lumber and smell of freshly cut wood that some form of construction was taking place. Greeting us at the door, a middle-aged man wearing a tool belt complimented the officer for being “right on time”. Standing inside the side entrance to the spit-level home, the officer tilted her neck to get a better view of several newly framed walls in the basement. While attempting to brush the sawdust off the sweat-dampened sleeve of his T-shirt, the man boasted how it was “coming along well”. As the man continued to work to remove the sawdust, now hardened into the wet fabric of his shirt, the officer inquired into the nature of the construction. Based on our birds-eye view of the basement, it was clear the man had roughed-in several rooms. Although hesitant, the man suggested the construction was taking place in order
to improve the “basement suite”. Curious about the man’s choice of words, the officer asked to see the rest of the house.

Proceeding up several steps to the main floor, the officer tapped me on the shoulder, drawing my attention to a deadbolt lock on the interior door of the house (a clear sign multiple tenants lived in the house). After a brief inspection of the main floor, the officer requested to see the upstairs. After a moment of hesitation, the man escorted us up a flight of stairs, where we arrived on a small platform in front of another locked door. Although struggling to find the correct key, the man eventually opened the door exposing a tiny two-room space containing a bed, a small sink and counter-top grilling device. Unimpressed by what lay behind the locked door, the officer asked, “Who lives here”. Sensing the officers displeasure, the man noted how “technically no one lived there right now” adding how the space had been rented out in the past. As the three of us stood awkwardly on the tiny landing, [so close the man’s damp shoulder was pressing against my arm] the officer probed further asking the man what his intentions were with the “basement suite”. Admitting the basement was being renovated to accommodate a third occupant, the man suggested we further discuss his intentions in the downstairs quarters or perhaps even outside the house.

Having descended down the narrow stairway away from where the landing interrogation had taken place, the man explained how only one tenant presently lived in the house. Admitting someone had occupied the upstairs, the man repeated how the basement renovation was being done to accommodate an additional renter. Over the next several minutes, the officer outlined the steps that needed to be taken moving forward. First, renovations needed to cease immediately as regardless of his intentions in the basement, the man had failed to obtain a building permit. Secondly, the man needed to guarantee the officer he would not rent out the
small apartment on the top floor of the house. Lastly, and perhaps most importantly, once he received the proper permits, the house needed to be converted back to its original single-family layout. As the officer explained, properties in the City were zoned residential for a reason. Repeating similar language used in the complaint itself, the officer discussed how the neighbourhood was home to many families who did not want to tolerate the nuisance associated with illegal rentals. In addition, while it was not “her job”, the officer noted how both the basement and third floor units lacked adequate fire exists. Reinforcing the severity of the situation, the officer assertively noted how “she’d be back to make sure he wasn’t still working on the basement in the coming days”.

Walking back to the municipal law vehicle, the officer turned to me remarking how she “couldn’t believe that was actually a triplex”.

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As was the case in other zoning investigations, complaints about illegal dwellings often come from neighbours who have an intimate knowledge of the neighbourhood. As several officers explained, concerns about illegal dwellings often related to the perceived detrimental effects renters could have on the integrity of their residential neighbourhoods. Maintaining the integrity or standards of a neighbourhood also informed complaints about property standards, noise and other nuisances. Importantly, this was not always the case.

*Living in the Concrete Jungle*

Navigating our way along a busy downtown street, the officer I was with explained his discomfort with having to enforce the “Green Space” clause (subsection 14(b) of the Zoning by-
law #6593). As outlined in the by-law, houses built prior to December 14th, 1971 needed to maintain 50% green space (i.e., grass, trees, flowerbeds or gardens) on the front lawn of the property. As the officer explained, the original goal of the by-law was to discourage residents from paving their front lawns to provide additional parking. Now travelling along a side street, the officer identified roughly a dozen clear violations in one block alone, validating his earlier claim the law had not been enforced consistently over the last several decades.

Parking down the street from the property under investigation, the officer explained how he hoped the accused had not already poured concrete or asphalt over the front lawn, as this would cause a bit of an “enforcement nightmare”. Arriving at the accused property, the officer asked if I wanted to hear the “good news or bad news”. Opting for the bad news first, the officer pointed out how both neighbouring properties were in clear violation of the by-law. Directing my attention to a row of properties across the street, the officer let out a sigh, suggesting a majority of the similar looking homes to the accused were also violating the by-law. Sensing the officer’s anguish, I asked him to provide the good news. Turning to face the property under investigation, the officer pointed out how the accused had not poured any concrete yet. On the other hand, the grass was gone and several long pieces of neatly cut plywood framed in a base layer of stone (a first step before pouring concrete).

Surprised by the sight of the officer, we were met at the front door by a middle-aged man who immediately walked outside onto his small covered porch. As the man followed him down the stairs and onto the sidewalk, the officer carefully explained the nature of our visit adding how the stop was not random, but rather based on a complaint. Like other investigations, the man’s first question was “who complained”? In an attempt to redirect the question, the officer asked the man to “talk to him” about the plans for the front lawn. While adamant that whoever complained
was obviously jealous of his property, the man eventually transitioned into a conversation about how the building across the road shielded his lawn from the sun. Although he had been trying to “grow a front lawn for decade”, the lack of sun exposure resulted in “more mud than grass”. Given the gentle slope of the property, a strong rain turned the front lawn into “a giant mud puddle”. As the officer assumed, a concrete truck would be arriving within the next several days to fix his decade long issue. As the man explained, he would not be using his lawn for parking but rather a small sitting area surrounded by several large potted plants. Hoping the planters might satisfy the green space requirement, the man emphasized his pre-planned arrangement of planters would be very tasteful improving the attractiveness and maybe even the property value.

As the three of us stood in front of the two-foot deep crater back-filled with gravel, the officer suggested a compromise. Noting how it might require some “reframing”, the officer encouraged the man to narrow the dimension of the proposed pad. Pointing to the small section of muddy-grass beside the house’s front porch and then to the large flowerbeds located directly in front of the house’s bay window, by the officer approximation, drawing the pad 3 feet away from the house and expanding the existing flower beds, would be “damn-close” to a 50/50 concrete/green space split. Shaking his head as if he was going to adapt the officer’s ad hoc redesign, the man turned to the officer asking, “aren’t my neighbours also breaking this concrete law”?

Responding in a mellow tone, the officer informed the man how “technically the neighbours were also in violation” adding how no one complained about the properties on either side of his own. Awestruck and again showing his displeasure with the complaint, the man shook his head expressing how he was a “good tax-paying” Hamiltonian, and that he refused to complain about others in the neighbourhood.
After almost an hour of discussion, the officer convinced the man to adjust his design to accommodate for additional green space. While the new ad hoc design was a “compromise” in comparison to the original design, the man discussed how it was “worth it” if it kept the City out of his hair. Shaking the officer’s hand and then mine, the officer and I retreated towards the vehicle, leaving the man motionless with his hands on his hips.

Seated back in the driver side of the municipal law vehicle, the officer recalled the events that had just unfolded. As difficult as enforcing the green space clause could be, the officer explained how it was part of the “job description”. Satisfied the redesign was “pretty close to a 50/50 split”, the officer planned on calling the complainant to inform them of the outcome.

Now on route to our next investigation, the officer reflected how there are some people who complain “simply because they can”. Like others, this officer explained how while the by-laws are needed, there are some people who perhaps “misuse” or “exploit” the law as a way of “getting back” at others in the neighbourhood. Sensing I might be interpreting this statement as an indication that a neighbour filed the complaint against the man we had just spent an hour speaking with, the officer noted how the green space complaint was filed by someone who lived “outside” of the neighbourhood.

* * *

Although not technically vexatious given the green space clause in the zoning by-law, the sequence of events described above demonstrates how there are cases where residents complain, as the officer suggested, “simply because they can”. As one municipal law official discussed, these types of complaints are not that uncommon:
I think there are people who want to maintain the standards in their neighborhood…and then there are those ones where you get a feeling right off the bat…they will call up and say ‘this is what is wrong with my neighbour’s house’…I will tell them that that is not a violation of one of our by-laws… and then they start cherry picking and saying ‘what about this’… Right there I know they are not going to stop until they find something and I say okay that’s a violation we will send someone out.

During my time in the field, I observed several cases where even the investigating officers struggled to comprehend why what were regarded as ‘trivial things’ were brought to the City’s attention. For example, on an early morning in June I accompanied an officer to a custom-built luxury home located on what the officer called a “prime piece of real-estate”. While the luxury home itself was finished, contractors were working diligently to complete several large stone pillars that would eventually support a fence. According to the complainant, the hand-built stone pillars were encroaching onto the City’s road allowance. Having checked the City’s GIS database confirming the exact distance the fence needed to be located away from the street, I held one end of a tape measure as the officer confirmed the fence was in fact encroaching on City property by just over 7 inches. Explaining how road allowances varied by street and even sometimes between neighbouring properties, the officer informed the contractors how the fence could not be built on City owned land. Dismayed by the reality of dismantling the stone pillars, the contractors explained how the complaint most likely came from a neighbour who had been a constant bother throughout the construction of the home. Pointing to the house across the street whose fence was located close to the road, the contractor suggested he perhaps start complaining about others on street. Halfway through a lecture on how technically he was entitled to do so, the contractor interrupted the officer suggesting he would never want to “cause problem” with the neighbours.
Similar to the resident wanting to replace his lawn with a concrete pad and the contractors building the fence, most Hamiltonians we interacted with, despite having a complaint filed against them or their property, were quite vocal about their reluctance to file a complaint against others in their neighbourhood as a method of retaliation. In a different case, during a follow-up inspection about a minor property standards issue in one of Hamilton’s expensive neighbourhoods, a resident explained how the complainant, who also happened to be a neighbour, knocked on the door of the home to “warn him” about the complaint. While the complainant’s property had “multiple by-law issues”, the resident explained how they “refused to go to war with the neighbour”. However, this was not always the case. According to one municipal law official:

We [the City of Hamilton] have cases where complaints are entirely retributive. Somebody calls in a complaint against them, and they respond by complaining about 50 properties that have the same issue as them… That’s the thing with education, these people know the by-laws and if they do file a complaint and there is a violation we have to investigate.

Unlike these examples, there were cases where residents were quite willing to call in complaints on others in the neighbourhood on a semi-regular basis, sometimes targeting specific properties or people in the neighbourhood.

While the law itself was not irrelevant in cases involving ongoing disputes between neighbours, discussions with complainants and accused parties often revealed tense neighbourhood relations. As my time in the field revealed, ongoing neighbourly disputes presented significant challenges for municipal law officials and the officers who often had to mitigate the conflicts. As one municipal law official explained:

We [the City of Hamilton] did identify that officers were having a lot of their time dedicated to these frivolous complaints, neighbour to neighbour disputes…you start to
see a history and the officers begin to become aware that there are no violations occurring... We [the municipal law department] took a report forward suggesting the need for a third-party mediation service ... Council approved it... but all parties have to be in agreement and I think that is the challenging piece because you often have one party that wants to do it and the other party doesn't want to.

A different municipal law official discussed how the City attempts to mitigate neighbourly disputes prior to sending officers to investigate. As the official went on to discuss:

I make it known when speaking to someone the City of Hamilton municipal law enforcement division does not address or take part in any civil disputes so if that's what it comes down to and we can determine that very early on in the conversation then I will let them know this is not something that we would address... If you're looking for that... Either you work it out with your neighbour or if need be contact your lawyer for legal advice... If it's an environmental complaint you take it and that's kind of where I leave it... If I can tell that it's turning into a ‘I don't like you so here's what I'm going to do’... That's fine... I make them aware that they [their neighbour] can easily turn around and do the same thing. If you know that this is the type of feud that is ongoing with your neighbour expect something in return.

Despite efforts to mitigate ongoing neighbourly disputes, during the spring/summer of 2014 I accompanied officers to several investigations where discussions with the accused and the complainant revealed longstanding conflict. Similar to how officers would attempt to establish compromises in disputes between residents and businesses, officers went to great lengths to try to mend fractured relationships between neighbours. During my time in the field, I observed officers using a range of different enforcement techniques to mitigate ongoing disputes between neighbours. For example, officers would often contact complainants several days in advance of being in the neighbourhood. In cases of ongoing neighbourly disputes, it was common for complainants to want to speak with officers in person. These in-person discussions, most often taking place in the complainant’s home, provided important context informing how officers proceeded with investigations. With this in mind, officers were very concerned with maintaining 70 Due to the nature of these investigations this section will not include any specific narrative-based analysis like other sections.

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the anonymity of the complainant from the accused. For example, prior to visiting a complainant’s home, officers would warn how the presence of a municipal law vehicle might ‘tip-off’ the accused as to who had made the complaint. As was the case in one investigation where a resident had made multiple complaints over the span of several years related to zoning infractions, nuisance and the improper disposal of waste, the complainant welcomed the officer and me into their home, confident the neighbour was “well-aware” who made the complaints. Likewise, discussions with accused parties in these ongoing disputes often revealed how they were also aware of who was filing the complaint(s). On one occasion, during an investigation involving “appallingly loud children playing in a backyard”, the accused party, who was also the mother of the children, insinuated to an officer and me, that we must have spoken with her “lovely neighbour”. Speaking in a sarcastic tone, the accused party informed us how her “lovely neighbour”, adding a “God-bless-her,” called the police on her and her children several times in the past week. Despite having just left the lovely neighbour’s home, where the multiple calls to the police were discussed, the officer repeated how they could not disclose the name of the complainant.

As discussed in Chapter 6, during my time in the field, there was debate between officers and municipal law supervisors over the extent to which reactive officers should engage in proactive enforcement. As several officers explained, while obligated to address any major municipal law infractions they encountered during an investigation, the last thing they wanted to do was escalate an ongoing dispute. On occasion this meant deficiencies a proactive officer might list on a Compliance Order were overlooked by a reactive officer. Officers, supervisors and managers were also aware of how a Compliance Order or a charge could increase tensions between neighbours. For example, on one occasion I accompanied an officer to investigate an
older home constructed prior to the regular installation of eavestrough systems. Sharing a driveway with the neighbour who had filed the complaint, it was alleged every time it rained the rainwater runoff would cross the driveway and enter into their basement. On the day of the inspection, the officer searched the addresses of both properties on the AMANDA system. The search revealed almost a decade of Compliance Orders issued towards the two properties. After surveying the property of the accused, the officer observed how several bricks from the home’s foundation had dislodged themselves. One had actually fallen out of place into a small garden alongside the house. Originally listing the eavestroughs and the foundational issues on the Order, the officer was instructed by a supervisor to remove the request to repair the foundation as it was not listed in the complainant’s original concern. He was also reminded how his role was not “technically proactive”. The officer assumed this request was made to minimize the chance the additional item on the Order might escalate the ongoing battle between the two property owners. After learning how past altercations between the two neighbours had required police intervention, the officer agreed it was the right decision to remove the additional foundation issue from the Order.

As this section demonstrates, municipal law related complaints are shaped by various factors including changing neighbourhood composition, quality of life issues and concerns regarding aesthetics. In other cases, discussions with complainants and the accused reveal longstanding neighbourly tensions. While subjective and related to quality of life issues, officers use strategic enforcement techniques as a way to mitigate and perhaps more importantly, not escalate these neighbourly conflicts.
7.4 Reacting to Late Night Disorder: Weekend Noise

During the fieldwork component of this research, I accompanied officers to over one hundred weekend noise investigations. Unlike the daytime noise, property standards, zoning and licensing complaints processed by City clerks then assigned to officers, on Friday and Saturday nights officers work in teams of two responding to noise complaints as received by the Hamilton Police. Similar to nuisance by-law enforcement, which includes the offence of public urination, during night-time weekend shifts I witnessed dozens of heated exchanges, often fuelled by various forms of intoxication. Similar to nuisance by-law, officers issued tickets during night-time noise enforcement in all but one shift I took part in. More so than daytime calls where officers could contact the complainant and request further context, officers responding to night-time noise had little idea of what they would encounter when arriving. In some cases, the officers, travelling in separate municipal law vehicles would arrive at an address to hear absolutely no noise at all. Depending on the day and the urgency of other calls investigated by the Hamilton Police, municipal law officers would arrive at a property several hours after the complaint was reported. On several occasions in an attempt to “clear the board”, a term used by officers to describe how low priority police calls (like noise) would sit in a dispatch cue for hours, dispatchers sent officers to investigate complaints called in several hours prior to our arrival. As one officer explained to me, regardless of when the complaint was made, the dispatchers were obligated to send “a unit” to investigate. During some investigations, the lag time between when the call was made and the arrival of municipal law officers, meant other parties had intervened to mitigate the noise. For example, after being dispatched to what an officer described as “not the nicest apartment in Hamilton” we entered the building, walked up several flights of stairs before arriving at the reported source of the noise. After waiting for
about a minute in dead silence, the officer decided to knock on the door to “educate the tenant on the noise by-law”. After another minute of silence, the officers and I proceeded back through the hundred-year-old apartment building. Arriving back outside, a woman sitting on the curb smoking a cigarette asked if we were the “cops” here to investigate the loud music. Sparing the woman a lesson in the difference between municipal law enforcement and the police, one of the officers indicated the noise was in fact the reason we were here. Poking fun at our “lightning fast” response time, the woman informed us how the “super” entered the apartment and turned the music off, adding how the tenant liked to crank his music up, have a couple of beers and pass-out.

Similar to other municipal law investigations, some of the individuals we interacted with during weekend noise complaints were polite and very apologetic for potentially upsetting others in the neighbourhood. In fact, while never obliging, during noise investigations we were offered alcoholic beverages quite regularly, an array of barbequed food and the occasional invitation to “join the party” once the shift was over. On the other hand, while accompanying officers investigating night-time noise I was regularly sworn at, called “a pig”, “a mall-cop” and “a buzz kill”.

No matter the demeanour of the accused party(s), a common theme in these investigations was an apparent lack of understanding on the behalf of local residents about the noise by-law. Most often local residents were seemingly misinformed about when the noise by-law could be enforced. Despite the “likely to disturb clause” being in effect 24/7, I witnessed countless interactions where residents, turned local by-law experts, informed officers of what time in the evening the noise by-law took effect. For example during an investigation, we attended a low-rise apartment around 9 PM. Knocking firmly on the accused party’s door, we
were greeted by a man wearing a Hawaiian shirt, holding a large blended beverage. Lowering the volume slightly so the officers could introduce themselves, when told about the noise complaint the man chuckled, looked at his watch, and told the officers he had until 11 PM to be “as loud as he fucking wanted to be”. Ignoring the officer’s rebuttal, the man placed his hand over his shoulder increasing the volume of the music with a handheld remote adding how the City of Hamilton could “suck his ass”. After several minutes of discussion where the man ranted how, unlike the others in building, he paid his rent and taxes on time, officers convinced the man to turn down the music. Warning the man how if the officer had to return for a subsequent noise complaint he would be ticketed, the man smugly informed the officers how “he got it”. While educating the accused and issuing verbal warnings was the primary outcome of many night-time noise investigations, enforcement techniques did vary from daytime complaints.

**Let the Steel Drums Play**

Pulling the vehicle up and onto the curb to avoid interrupting the flow of traffic on the narrow street, the officer shifted the small SUV into park. Parked almost a full block away from the address of the reported noise, the officers and I walked along the sidewalk of the downtown neighbourhood, clarifying the dispatcher had in fact mentioned “steel-drums” when assigning the call. Walking towards the reported location of the noise, both officers stopped abruptly as the faint sound of drumming intensified. Turning to the houses to our left, one of the officers pulled out his notebook, documenting the “point of reception”. Proceeding in the direction of the noise, the officers explained how establishing a point of reception was an important step in the investigation. If a ticket was issued, and if that ticket was fought in court, this point of reception would demonstrate the distance the noise was travelling. Noting how we had passed eight
houses since the point of reception, the officer explained how this would be a reasonable threshold to prove to a judge the noise was likely to disturb.

After debating whether to knock on the front door or enter into the backyard, the officers and I proceeded down a walkway alongside the house. Peeking over a closed gate into the backyard, the officers and I observed a dozen people sitting on a large back deck singing along to the beat of two steel drums. Sheltered from the view of those partaking in the backyard sing along, one of the officers turned to me, noting “how talented the drummers were”. Out of sight from the group, the other officer suggested we should “let them finish the song” adding how a couple more minutes of music would not hurt anyone.

As the song ended, and as several in the group applauded, the officer and I entered into the backyard. Now in plain sight of the group, the officers explained how they had received a complaint about the noise coming from the backyard. Clarifying the usual confusions about when the noise by-law was enforceable, the officers explained how this visit was a warning and if they received a second complaint, resulting in a second visit, the group would receive a noise ticket. Met with some resistance from several members of the gathering, the officer asked to speak with the owner or tenant of the property. Although hesitant, a younger man came forward pulling the officers way from the larger group, explaining how he would keep the noise down. Thanking him for his commitment to keeping the noise down, one officer requested to see the young man’s identification. Skeptically pulling out his wallet and handing his identification to the officer, the other officer explained how they [the officers] needed the man’s information in case they returned and issued ticket. Still not convinced why he needed to show identification, one of the officers explained how if we [the officers] return, there will be no debating whom the
ticket will be issued to. Recalling what was said moments ago, one of the officers reminded the man, how he had already “committed to keeping it quiet”.

* * *

Officers reacting to night-time noise complaints all followed a very similar protocol during investigations. Like the interaction above, officers would first establish a point of reception. In some cases of loud music, more music-savvy officers would also note the exact artist and name of the song. Unlike daytime noise complaints, officers would always ask for the identification of at least one person on the property where the noise was originating. As experienced firsthand, when responding to house parties where multiple people resided in the dwelling, officers would request the identification of all the individuals “hosting the party”. On one occasion after returning to a large house party where a verbal warning was given previously several hours before, officers decided to issue multiple tickets to the party’s hosts. Having already identified the individuals residing at the house and hosting the large gathering, the officers had no trouble establishing the appropriate recipients of the tickets. After a heated exchange with several partygoers, the officer explained to me how “that’s why we ID them on the first visit”.

During a majority of noise investigations, officers would first give a verbal warning and if dispatched to the same property again, issue a ticket. During my time in the field, two factors influenced officers to deviate from this routine. Similar to trends in policing (see Lundman, 1994) the demeanour of the people officers interacted with during these calls influenced the action taken. Not unlike the man in the Hawaiian shirt, some accused parties reacted very poorly (according to the officers) to the presence of officers and the verbal warning received. As was
the case with the man in the Hawaiian shirt, the saving-grace for many of these individuals was their calmer demeanour as the conversation with officers unfolded. This was often influenced by the officer’s ability to deescalate and “talk sense” into the accused parties. However, on a handful of occasions even the most skilled officers could not calm accused parties. For example, on one occasion officers responded to a small gathering inside a town house complex. Upon arrival and after being berated by profanity, the owner of the townhome eventually provided the officers her identification. After turning down her music, the officers and I stood outside of the property to ensure compliance was not a simple ploy to get the officers to leave. After watching us from behind her second floor sliding glass door for several minutes, the woman stepped out on to her deck continuing her profanity-laced rant. Having turned the music up to the same level it was when we arrived, the officers decided to issue a ticket. Refusing to answer the main-level entrance and continuing to curse through the door, the officer decided it was best to leave the noise ticket on her front stoop. If demeanor was the first factor influencing officers to deviate from their normal enforcement routine, the level of noise was the second.

**Level 3 Noise**

Stopped at a stop sign several hundred metres away from the address the dispatcher had provided, the officer I was accompanying looked at me and muttered the words “you got to be joking”. Still over a block and half away from our destination, the lyrics from the loud music, presumably coming from the accused party’s property could be understood verbatim.

Parking across the street from the source of the noise, we were met by a man who identified himself as the complainant. Immediately empathizing with the man and the rest of the neighbourhood enduring what one officer called “concert-level noise”, the officer inquired if the
man had attempted to knock on the door of the property under investigation. Outlining his long
tenure in the downtown neighbourhood, the man alleged the house had been home to illegal
activity in the past, suggesting even after being acquired by a new owner, the house was most
likely a “crack house”. Thanking the man for the information, the officers and I crossed the
street and proceeded to knock on the door. After a number of failed hand-knocks, one of the
officers kicked the door several times rendering no response from whoever resided inside.

Proceeding around the side of the house, the officers and I arrived in the backyard to the sight of
a rear entrance door slightly ajar. After several more failed knocks, this time on rear door, the
officers and I retreated from the backdoor. After some debate, the officer decided the best course
of action would be to contact the Hamilton Police who might be able to accompany us into the
house. Walking back to the front of the house in an attempt to find relief from the noise (which
was louder at the rear of the house) the officers contacted the police.

Arriving in mere minutes, the municipal law officers discussed the situation with the two
Hamilton Police officers who had come to assist. While aware of the legal implications of
entering a home without a warrant, the police and municipal law officers decided that given the
neighbours description of the house’s past history (being used for illegal purposes) there was a
possibility the occupant could be in some kind of distress.

Returning to the rear entrance of house, the four officers and I proceeded through the back door
into a neatly organized kitchen. Encouraging me to stay behind in the kitchen, (despite the fact
one of the municipal law officers jokingly suggested I should enter the house first) the officers
proceeded into the living room. After giving me the “green light” to join the officers, I watched
as the two Hamilton Police officers nudged a man “sleeping” on a couch surrounded by a
scattering of empty beer cans. After several attempts, the man eventually awoke, utterly confused by the five people standing in the clean and modestly furnished living room (including two speakers each the size of small bookshelves). Having already turned down the almost unbearably loud music, the officer asked the man if he was in need of any medical attention. Now sitting up on the couch, the man explained how he was listening to his music, having a couple of beers when he fell as sleep. Commending the man for his ability to sleep through the noise, one of the municipal law officers informed the man how his music was bothersome to the others in his neighbourhood. Establishing he was a tenant in the house, one of the municipal law officers informed the man how he was going to be issuing him a ticket under the City’s noise by-law. Reiterating the importance of respecting others in the neighbourhood, the man requested the officer leave the ticket on his kitchen table beside his other mail. After confirming the man was not in need of medical attention, one of the municipal law officers mentioned how we did not want to return to his house again for a noise violation. Reassuring the five of us noise would not be a problem, the man smiled, giving us an “FYI” the stereo was “only on level-three”. As we proceeded back through the kitchen, the man clarified that by “level-three he meant the speakers could go seven levels louder”!

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Similar to the enforcement of other municipal laws, it appeared that officers would go out of their way to resolve night-time noise complaints. On occasion, this required officers to work outside of their legal jurisdiction. For example, as discussed above, in order for officers to enforce the noise by-law they must first establish a clear point of reception. This point of reception, in theory, should be located on City property. In other words, no matter whether dispatched to a detached home, a town house or a high-rise apartment building, the point of
reception is always the street. As a result, technically noise audible only through the shared walls of an apartment and not the street is outside of the scope of the noise by-law. On numerous occasions I listened patiently as officers explained to occupants of apartment buildings the importance of abiding by the noise by-law and respecting the others in the building. In other cases, the point of reception requirement added a further barrier for officers attempting to assist residents dealing with noisy neighbours. For example, when informed about the point of reception stipulation, one angry resident requested the responding officers enforce “every possible by-law” on the neighbour who was making noise only audible through a shared townhouse wall. After calming the resident, the officer suggested a better solution would be for her to return and speak with the loud neighbour during the daytime hours as “a door knocks at this hour” (the interaction taking place just after midnight) might only escalate the conflict. Reversing the roles between the complainant and accused, the officer asked the resident if they would like a knock on their door at this hour. Reminding the resident how the point of reception requirement, the officer noted how the follow-up visit would be courtesy for the inconvenience.

Similar to the daytime noise investigations, during night-time enforcement officers encountered situations where the City’s qualitatively defined noise requirements placed officers in challenging situations. Discussing the likely to disturb clause, one officer explained how “what people consider disruptive really varies from call to call, sometimes from night to night…you know how it goes…all it takes is one person…one person who thinks the music is too loud and next thing we’re there having the conversation [referring to educating people on the noise by-law]”.
From Front Porch…

Finishing his notes from the previous call, the officer and I sat parked on a side street. Awaiting to be dispatched to the next noise call, we watched a group of young people congregating on the adjoining lawns of two large houses. While several partygoers sat in lawn chairs on one property, on the other, a group of females danced on the porch. Providing the soundtrack for the gathering was a mid-sized speaker pushing out a popular auto-tuned Top 40 summer hit. Clearly audible from our location several hundred feet away, the officer joked how maybe we would not have to travel too far for our next call (insinuating we might be dispatched to the gathering we were observing). After several minutes of waiting and more slightly distorted Top-40 music, the officer’s radio crackled, dispatching us to a noise complaint on the other side of the City.

*   *   *

To Front Porch…

Parking the municipal law vehicle on a crowded downtown street, an officer (the same one described in the narrative above) and I waited for his partner to arrive. After several minutes of chatting, a second municipal officer pulled up, parking the unmarked City of Hamilton vehicle across the street. Convening on a busy street corner, the officers discussed the details of the upcoming investigation, with one officer clarifying that, the dispatcher had said “band is playing on a front porch”. Like other night-time investigations, the dispatcher had given the officers a general vicinity where the noise was reportedly coming from. Walking past several restaurants, whose busy patios catered to the late-dinner crowd, one of the officers spotted a small gathering on a front lawn several hundred feet from our location. Walking up the block, we eventually arrived across the street from a group of 15 people standing on a front lawn. Drinks in hand,
several onlookers swayed to blues inspired and down-tempo music flowing out of the speakers on the front lawn. Just as the dispatchers had outlined, a small band was assembled on the front porch. Looking back at the restaurants behind us and noting how several diners had adjusted their chairs to listen to the music, one of the officers expressed how “this one isn’t gonna be pretty”. Crossing the street, the officers approached a woman who seemed to be in charge of the intimate event. Discussing the nature of the visit, but not asking for identification, the officers outlined how the band needed to cease playing music for the evening, adding how someone filed a complaint. After several minute of discussion with the woman and the members of the band, the officers explained if the music continued and the officers had to return, “tickets would be issued”.

Having left the disappointed crowd on the front lawn, one of the officers mentioned how calls “like that one” were never easy.

* * *

As the two narratives discussed above demonstrate, the noise by-law, while defining noise in qualitative terms, is still enforced rather objectively during night-time investigations. As my time in the field revealed, only on rare occasions, for example when verbally assaulted by accused parties or in cases of extreme noise, did officers break their enforcement routines of issuing warnings followed by a ticket if recalled to the same property. Likewise, with the exception of Frosh Week, the noise by-law was rarely proactively enforced. As a result, the only thing differentiating millennials partying to loud Top-40 music and a group of middle-aged residents listening to a band on a front porch was a complaint. As the last example in this
Chapter demonstrates, similar to daytime enforcement, night-time noise complaints were at times influenced by changes to the social composition of neighbourhoods.

**Passing the Hat – The Cost of New Neighbours?**

Driving past several industrial properties on route to investigate a noise complaint, the officer explained how “he had a feeling tonight would be busy”. Given the unseasonably warm evening temperatures for early June, the officer anticipated many Hamiltonians would be outdoors enjoying the nice weather.

Stopping several houses down from the property identified by the dispatcher, the officer turned to me sitting in the passenger seat and confirmed the address. Similar to others, this officer utilized my “note taking ability” by having me jot down the specific address of a potential noise violation. This most often occurred when dispatched to a call while in transit.71 Confirming the address the officer had heard matched what I had written down, the two of us exited the vehicle and met up with the other officer responding to the noise. Walking in the direction of the property, the officers paused briefly to record the point of reception. As the noise grew louder and we got closer to the address under investigation, the officers and I observed a small group of people, red solo cups in hand, conversing on the front lawn. After a brief introduction and an overview of why we were attending the property, one of the members of the front lawn gathering proceeding into the house to find the property’s owner. Reiterating how the City had received a noise complaint about the property, the woman who owned the house, looking unsurprised by the

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71 On the first occasion this request took place, I removed a page from my notebook and used the dash of the vehicle to write the addresses. At the end of the shift, I gave the page of addresses to the officer I had accompanied. During the following shifts, I carried post-it-notes to record addresses for officers. At the end of the shift, post-it-notes were disposed inside the Municipal Law office (using the same garbage other confidential documents were deposited for waste).
information, explained how she was hosting a “little gathering” for some friends in the neighbourhood. Encouraging the officers to “lighten-up”, the woman went on to explain how she hosted these types of gatherings throughout the summer. Now joined by several other party guests, another woman explained how many of the people attending the gathering lived on the street. Peering into the front window of the house and looking confused by what he saw, one of the officers inquired into why the main floor appeared to lack furniture. Smiling, the property owner informed the officer the group needed the space to dance. After copying the information from the woman’s identification and discussing how a ticket would be issued upon our return, the officers and I left the property.

After investigating a handful of other noise complainants and issuing several verbal warnings, the Hamilton Police dispatcher radioed us back to the “little gathering” we had attended early in the evening. Explaining how the complaint had come from the same caller, the officer I was riding with confirmed the address with the dispatcher, noting how we were on route. Arriving within several minutes of being dispatched, both officers parked directly in front of the two-story home we had visited roughly three hours prior. Although no music was playing, several dozen people stood spread across the lawn, the front porch and into the houses living room/makeshift dance floor. After several minutes, the officers located the woman who owned the home. Before the officers could say a word, the woman explained how she knew it was late, how she had turned the music off and asked people to make their way home. While the gathering was notably larger than our first visit, the woman’s claims seemed genuine as several small groups of partygoers strolled past us during the conversation.

Standing on the street between the municipal law vehicles, the officer debated the best course of action. While the woman had silenced the music, several dozen people still congregated in front
of the house, most of them saying their longwinded goodbyes. After several minutes of debate between the officers (at one point considering breaking the enforcement routine I had witnessed dozens of times by not issuing a ticket) it was decided the noise of the people chatting on the lawn was enough to warrant a ticket. After filling out the ticket, the officer and I navigated through the crowd, eventually locating the woman who was in the middle of hugging a departing party guest. Confused by how turning off the music and instructing her guests to leave had resulted in the ticket, the woman pleaded with the officers explaining how these “gatherings” had been taking place on the street for years. While discussing how the by-law did not only regulate music, but also any type of noise likely to disturb, including the voices of people leaving a party, the woman snatched the ticket from the officer’s hand. Now joined by several other partygoers, all coming to the woman’s defence and verifying how these gatherings had been a longstanding tradition on the street, the woman explained how it was most likely the “new neighbours across the street” who complained. Supporting the woman’s allegation, another man explained how he had been attending similar parties on the street for years, noting how he and his wife had even hosted on several occasions. Pointing to a house located across the street and several doors down, the man angrily proclaimed how it was unfair he and his friends suffer because the “new neighbours from Toronto” cannot tolerate a little noise on a Friday night. Taking the ticket from the woman’s hand, the man took off his ball cap, turning to the others gathered on the front lawn. Without saying a word, the man passed his hat to the person beside him who dug into their wallet removing what looked like a ten dollar bill. Placing the money in the hat, I watched as the man’s ball cap was passed amongst the people still standing on the front lawn. Retreating inside the municipal law vehicles, the officers and I waited several more minutes for the crowd to disperse. Just prior to departing back to the municipal law offices, the man who had orchestrated the
communal fund to pay for the ticket approached the vehicle. Rolling down the window, the
officer and I sat in silence as the man, without breaking his stride suggested how “this [referring
to the ticket] wasn’t right”.

After clearing the officers from the call and logging off with the dispatcher for the evening, the
officer and I reflected on the events that had just unfolded. As the officer pointed out, there was
no way to actually prove the partygoer’s claim that the complaint had been “called in by the new
neighbours from Toronto”. On the other hand, he had no way of disproving the claims made by
the accused, adding how “they [the local residents] know the street better than us”. Discussing
his “unbiased” take on the events, the officer also noted how the context behind the call, whether
or not the gatherings had been taking place for years, whether the complainant was in fact new or
from Toronto, was really irrelevant to the ticket. Outlining the protocol I had witnessed dozens
of times, the officer explained “how we [the officers] responding to the call, gave a warning, had
to return to the house and issued a ticket...case closed”.

*   *   *

As this section demonstrates, similar to enforcing the nuisance by-law, night-time noise
investigation often placed officers in rather hostile interactions with members of the public.
With few exceptions, officers followed a similar enforcement routine when responding to night-
time noise complaints, first issuing a warning and upon returning to the same property, issuing a
ticket. This Chapter will now transition into a brief overview of how complaint-based
investigations sometimes require officers to work outside of their legal jurisdiction. The
following section will also discuss the close and legally reciprocal relations municipal law
enforcement have with the Hamilton Police.
7.5 Legal Jurisdiction and “Policing” Complaints

Spitting in Mad

Using the hood of the midsized municipal law SUV as a makeshift desk, the officers reviewed the noise tickets they had just issued to the large student rental located on a corner lot. As a method of ensuring the tickets would be admissible in court, the officers wanted to confirm they had both indicated the correct address. Confirming continuity between the tickets, the officers stood patiently waiting for about 60 partygoers lagging behind the larger group who had already left. As the three of us stood by the municipal law vehicle, a small group of disappointed partygoers walked passed, exchanging few words. Unsatisfied with the level of noise coming from the group still loitering at the end of the driveway, one of the officers and I proceeded to walk down the street towards the party house. About halfway through the short journey, our short walk was interrupted by the other officer, still at the municipal law vehicles, informing someone to “get back here…have a seat…right there…don’t move!” Sensing her colleague might be in trouble, the officer and I sprinted back to the vehicle, where the other officer explained how one of the disappointed partygoers had cursed at the officer, spitting on the side window of the municipal law vehicle. Illuminated by the overhead street lamp, I watched as the large gob of spit slid down the window, eventually pooling on the rubber weather seal on the trim dividing the window and door. Without hesitation, the officer reached for his shoulder mounted radio, informing the Hamilton Police dispatch we needed some assistance.

In a matter of minutes, two Hamilton Police officers arrived, parking across the street from the man still sitting on the ground. After several minutes of discussion amongst the four officers, the man was given a warning by one of the police officers about how this “type of behaviour” was
unacceptable. Now speaking to the young man’s friends who stood anxiously several metres away, the officer explained to the man and his friends how “we” (the police and municipal law) are out here trying to keep you people safe, adding how calls like this took them away from other matters. After speaking with the designated driver, confirming he was fit to drive, the group of young people drove off. Thanking the Hamilton Police officers for their assistance, we returned to the municipal law vehicle where the officer “cleared us” from the call with the dispatcher.

After finalizing his notes, the officer who had radioed for police assistance explained how in comparison to other municipalities, Hamilton’s municipal law officers worked closely with the Hamilton Police, adding, “I don’t have to tell you that…you’ve seen it firsthand probably a dozen times”.

*   *   *

As experienced during my fieldwork, municipal law officers work closely with the Hamilton Police. In addition to the multiagency taskforces and the less orchestrated working relationship during the late night hours in Hamilton’s entertainment district, municipal law enforcement and the police also collaborate in early September to monitor the areas surrounding McMaster University and Mohawk College. Importantly, even outside of these coordinated enforcement blitzes, municipal law officers at times engage in work technically not within the jurisdiction of municipal law or within the powers issued to them through the Ontario Municipal Act. As discussed previously, Hamilton’s noise by-law holds no legal power on federal land. Despite being “legally-handcuffed” as one officer put it, municipal law officers visited the CN rail yard on a regular basis, each time informing the site manager about the complaint.
Apartment noise and noise not audible from a City street is also a grey-area in municipal law. Therefore, when point of reception is the 10th floor hallway of an apartment building, the complaint technically falls into the purview of the Landlord and Tenant Act. Likewise, noise audible only through the shared wall of a townhouse and not the exterior of the property is a civil, not municipal law issue. In other cases during my time in the field, municipal law investigations overlapped or uncovered violations of criminal law. For example, on one occasion while investigating an alleged noise complaint at a local football field, an officer and I entered into the aftermath of a violent assault. According to the victim, whose was face, shirt and arms were covered in blood, a spectator at the football game, unpleased with how fast the victim was driving, threw a football helmet through the side window of the victim’s car. Standing in a sea of shattered glass and in clear view of the smashed window, a civilian tending to the victim informed us how the police and an ambulance were on route. Speaking with the victim’s friends, the officer was told how the individual who threw the helmet had not left the property. Having identified the accused party, the officer approached the suspect engaging them in a series of questions about the incident until the police arrived. Importantly, noise complaint investigations were not the only time officers found themselves in the middle of potential violations of criminal law.

**Standing on Suspicious Soil**

Standing on the stoop of what appeared to be a vacant storefront, the officer discussed how they found it “funny” all of the windows in the building, including the apartments located above the store, had newspaper covering the windows. Pacing in front of the century old storefront, the officer hypothesized the ground-floor retail space was being rented out as a living space adding how it “wasn’t that uncommon” in this area of the City. Switching the topic away from the issue
of illegal conversions, the officer repeated the reason for the visit, outlining how someone had complained about a large pile of gardening waste in the alleyway behind the building. Cutting his general description of the complaint short, the officer paused, pointing to a very small security camera mounted above the entrance to the store’s massive wooden door. Eyes fixated on the small device, the officer, taking out his City-issued camera snapped several pictures in rapid succession.

Pacing quickly down the street and around the corner, the officer and I entered an alley that eventually led to the rear entrance of the building. Consistent with the complainant’s description, the officer and I found ourselves standing in front of a large pile of rich topsoil. In sharp contrast to the beaten down, dull-coloured gravel alleyway, the dark pile of dirt appeared to have been dumped recently. Standing beside the pile of soil the officer also noted several dozen small green planters discarded alongside the dirt. Venturing towards the backdoor of the property, the officer stopped abruptly, placing his hand across my chest to ensure I did not proceed any closer to the back entrance. Asking me “what do you see here”? but not waiting for me to respond, the officer counted three additional cameras facing the area we stood in. In contrast to the large wooden door at the front of the property, the rear entrance was secured by what appeared to be a recently installed steel door. Identical to the scene at the front of the property, all of the rear windows were covered by newspaper. Heightening the officer’s suspicion that the property may be home to some type of illegal activity (possibly a marijuana grow-operation) was a house trailer parked alongside the narrow driveway leading to the back entrance. Sensing perhaps “we had already overstayed our welcome”, the officer snapped several quick photos of the soil and building.
Later in the shift, we ran into several Hamilton Police officers during a non-related investigation. Informing the police how he felt he should “pass-off” the investigation, the officer noted how he felt “confident in his decision not to tape a Compliance Order to the door of building…or the trailer”. The police officer agreed.

* * *

While there were occasions when municipal law officers relied on the police to assist, or take over investigations, there were also times when the police contacted municipal law to assist them address certain neighbourhood issues. For example during my time in the field, there were several occasions when the Hamilton Police utilized municipal law enforcement to help mitigate complaints the police had received. Interestingly, despite being technically inferior on the regulatory hierarchy in comparison to provincial and federal law, the “permitted use-based” clauses forming the basis of municipal laws acted as a powerful tool for addressing some forms of “disorderly” or offensive activities. Consistent with the literature on counter-laws (see Ericson, 2007), the traditional rights granted under federally enacted laws become reinterpreted under local City laws, sometimes disregarding constitutional protections (see Levi, 2009; Valverde, 2012). Hamilton’s response to complaints about graphic anti-abortion signs being displayed throughout the City provides a noteworthy example of the power of local law.

During the summer of 2014, Hamilton received dozens of complaints about several large and very graphic prolife anti-abortion banners displayed on busy streets throughout the City. As several officers and supervisors explained, the issue became particularly “concerning for the City” during the previous summer as a graphic abortion banner allegedly caused a woman to lose control of her vehicle on the Lincoln Alexander Parkway. As one officer explained, the group
hung a large banner depicting an aborted fetus cut in half on top of a blood-spattered operating table (pro-life). A different officer who had seen the banner noted how although he “respected” the group’s message, the sign was perhaps a little “over the top”. The officer added how technically there was little the City could do to address the issue as the pro-life group had not anchored the sign to City property, instead choosing to hold the banner overtop of an overpass.

While in the field, the municipal law department received a request from the Hamilton Police to see if they could address the issue using the City’s sign by-law. Unlike the summer before, the pro-life group was using the same image on a banner it had mounted to several foldable lawn chairs. Discussing the issue with several officers over coffee, it was pointed out how technically, because the signs were now “mounted” to the ground, the group needed to have a permit for each of the signs. As experienced firsthand, officers were not hesitant to confiscate illegal signs in cases where businesses purposely ignored the sign by-law. In fact, while walking through the municipal law office it was not uncommon to see officers carrying signs they had confiscated.

After some deliberation between supervisors and officers, it was decided that given the politically sensitive nature of the signs, officers would respond to complaints and use the stipulations in the sign by-law to warn the group about the need for a permit. Officers would then instruct the group to remove the signs in the hopes this would at least provide a short term solution. While this approach did little to reduce the number of complaints, it did force the group to relocate from busy City streets. The City also hoped residents would see how the City was taking the concerns seriously. As experienced firsthand, verbal warnings forcing the group to remove the graphic banners from City property proved to be only a temporary solution.
Standing on a busy street corner during morning rush hour, an officer and I witnessed an irate resident vandalize one of the group’s banners. In protest to the vandalism and despite multiple warnings by the responding municipal law officer, the group refused to remove the sign that was encroaching on the City’s road allowance (in addition to lacking a permit). As several Hamilton Police officers arrived to sort out the chaotic scene unfolding in front of us, the officer decided to confiscate the sign, issuing the group several tickets. Straight-faced and well versed in the nuances of sign by-law, the municipal law officer explained to the responding Hamilton Police officers how the content of the sign was “irrelevant” to the municipal by-law. Had the group been holding the banner, it would have been a different story. However, as soon as the banner was mounted to City property, the by-law “was in play”.

7.6 Conclusions: Street-level Conflicts and Municipal Law

As this Chapter has demonstrated, Hamilton’s municipal law officers investigate a diverse array of complaints ranging from noise to unkempt properties and from illegal dwellings to illegal fences impeding on the City’s road allowance by a matter of inches. Drawing on data gathered through ethnographic observations and interviews with municipal law officials and planners this Chapter has also highlighted the general reasoning behind many of the complaints the City of Hamilton receives from local residents and businesses. For example, in some cases, like several of the investigations discussed in this Chapter, local businesses contact the City when a perceived competitor is gaining some kind of unfair advantage by breaking a municipal law. The narrative entitled Justice: Severed with a Side of Illegal French Fries is a good example. In other cases, like many neighbourly disputes, complaints share a less direct link to local economics. Instead, as several examples in this Chapter demonstrate, neighbourly complaints often revolve around conceptual notions of acceptable and non-acceptable forms of
behaviour. Many of these complaints are influenced by social changes within neighbourhoods. On the one hand, as new residents move in, some long-standing neighbourhood norms become challenged by those unaccustomed or unwilling to tolerate municipal law violations that may have been present long before they arrived. The example of *Unplugging the Neighbourhood DJ* is a noteworthy example. On the other hand, as was the case in the *There is now way this place is a Triplex* example, local residents also contact the City when they feel the integrity of the neighbourhood is being threatened by a municipal law violation. In other cases, like the *Living in the Concrete Jungle* investigation, the reasoning informing the complaint is less obvious. As the officer investigating the green-space clause suggested, some complain people complain simply because they can. In this regard, the reasoning that informs many of the complaints officers investigate are not entirely unrelated to the key themes discussed in previous Chapters of this dissertation.

This Chapter has also highlighted the lengths officers go to resolve or at least manage municipal law-related disputes throughout the City. While the laws are certainly not irrelevant, this Chapter has demonstrated the strategic enforcement techniques deployed by officers to help mitigate the sometimes tension-filled neighbourhood relationships their investigations revealed. What is particularly important is that these enforcement techniques are almost entirely influenced by micro-level and investigation-specific factors opposed to some of the more general economic and renewal-focused priorities set out in some City documents as was presented in Chapter 5. This is not to suggest that economic factors were not at play when deciding an appropriate response to clear violations of municipal law. However, much like the *Justice: Severed with a Side of Illegal French Fries* investigation, the extent to which the food truck was gaining an unfair advantage in the mobile food economy was only one factor influencing the decision to
issues tickets. As the narrative describing the food truck investigation highlighted, the officer was also quite concerned with the trucks lack of fire safety and public health certification. Of equal importance, in the attempt to manage street-level conflicts officers were very hesitant to pursue punitive measures (e.g., issuing a ticket), out of concern for escalating a dispute. In contrast to the order maintenance approach to social disorder (e.g., noise), set out in some City documents and the Protecting the Future report, officers demonstrate a much less punitive mentality when enforcing the City’s noise by-law, even in the late hours of the evening. As this Chapter has illustrated, officers followed a standard protocol of warning the accused party(s) and if dispatched back to the same property, issuing a ticket. Finally, similar to what was discussed in the previous Chapter, the officer’s hesitation to proactively issue Orders when encountering a deficiency during a reactive investigation should not be overlooked. As several examples given throughout this Chapter demonstrate, the hesitation to proactively issue Compliance Orders was influenced by bureaucratic factors (i.e., not being a designated “proactive officer”) and the desire to not escalate neighbourhood disputes. With that being said, although sharing a less direct link to the City of Hamilton’s broader economic agenda, this Chapter has demonstrated how the street-level enforcement decisions made by officers on a daily basis are instrumental in maintaining civility throughout the City. In some cases the subjective wording of the law itself impedes on officer’s abilities to resolve local disputes. For example, like daytime and night-time noise investigations described in this Chapter, the subjective wording of the by-law itself forced officers into difficult enforcement decisions assessing what level of noise was likely to disturb. In other cases, attempts to resolve street-level conflicts, on occasion, even led officers outside of their legal jurisdiction. Noise complaints where the point of reception falls on ground other than City property would be a noteworthy example. While this renders municipal law powerless in
some cases, this Chapter has also demonstrated how local land-based laws can be used to address gaps in criminal law (e.g., the use of the sign by-law to confiscate an abortion sign).

This dissertation will now discuss cases where investigations led to interactions with some of Hamilton’s poorer citizens. The following Chapter will discuss the role municipal law officers play in ensuring what they believe to be the health and safety of Hamilton’s more marginalized populations. Importantly, unlike many of the enforcement techniques described in this Chapter that were informed by efforts to manage street-level conflict, the following Chapter will discuss how the efforts to ensure the “health and safety” of the marginalized (specifically those living in precarious housing) are not entirely unrelated to Hamilton’s broader economic and strategic planning goals. Shedding empirical light on the complexity and multiple logics that inform the governing process, the following Chapter will demonstrate how officer’s attempts to protect the marginalized at times coincide with a more punitive effort to punish absentee landlords whose neglect endangers those living in substandard housing. As the following Chapter demonstrates, this more punitive response, while primarily informed by protecting Hamilton’s marginalized, often force landlords to make considerable improvements to their property, which in turn, helps address the tarnished physical conditions and general image of the City.
Chapter 8.0: Interactions with those at the Margins

Absentee Landlord: Nightmare on Cannon Street

On January 19, 2014, several months prior to beginning the ethnographic component of this research, the Hamilton Spectator published an article titled “Absentee Landlord: Nightmare on Cannon Street”. The article begins by describing an impromptu tour given by one of the three tenants living in the street-level rental. The tenants of the rental, two brothers and one of the brother’s spouses who are described as “developmentally delayed” by the journalists, share the cluttered space, home to exposed electrical wires, blankets surrounding the window joists to keep the heat in and a toilet that ice renders unusable in the winter (Buist and Escott, 2014). The three bathe using the sink because the shower does not work. The three tenants, all in their sixties, who can neither read nor write, use Ontario Disability cheques to pay the $700 per month rent (Buist and Escott, 2014). Owned by the same landlord and attached to their present dwelling, the three originally lived in the unit next door. According to the article, the trio moved to Hamilton
in 2010 so Richard, one of the three tenants, could be treated at the Jurasvinski Cancer Centre (Buist and Escott, 2014). If enduring little heat, no space to bathe and a broken toilet were not bad enough, the article outlines how, after moving into their current apartment, the landlord arrived unannounced, constructing a wall dividing the trio’s already tiny living quarters (Buist and Escott, 2014). The makeshift renovation cut the trio off from accessing the unit’s kitchen and original washroom but created a new rental space in the front of the home, which the landlord rents to another tenant for $500 per month (Buist and Escott, 2014).

Residing above the trio’s old rental, a man in his late 60s pays $700 per month to rent an apartment where the water did not run for almost a week in the winter of 2014. Sharing his apartment with bedbugs, cockroaches and rats who on occasion bite him, the man residing in the second-floor rental describes the landlord as a “money-maker not a money-spender” (Buist and Escott, 2014). Another tenant who resides above the developmentally delayed trio, also paying her rent with Ontario Disability, shares a story with the two journalists about how she recently killed a rat in her unit, first stunning it with a ceramic pot then finishing it with a hammer (Buist and Escott, 2014). The article describes how she took the journalists outside the unit to show them the rat carcass. According to the article, the landlord, now the subject of a Hamilton Police, fire and by-law investigation, generated an estimated $40 000 in rent a year from the two properties he purchased for a combined $154 000 between 2009 and 2010 (Buist and Escott, 2014). When asked why they did not complain, the “developmentally delayed” trio explained they were “afraid they’d be tossed out of their apartment with no place to go” (Buist and Escott, 2014).

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Three months after the *Nightmare on Cannon Street* article appeared in the Hamilton Spectator, I sat inside the municipal law offices discussing with a municipal law official what I “might see” when accompanying officers during investigations. Having spent limited time in the field, the municipal law official explained how there might be occasions during my research where officers attend properties where people are living in “less than ideal” conditions. After several minutes of discussion, the informal briefing session turned to the *Nightmare on Cannon Street* article published in the Hamilton Spectator. Noting how the article cast a “less than favourable light on the downtown and municipal law enforcement”, the official explained how, prior to the article’s publication, municipal law officials were unaware of the desolate property and absentee landlord. Sighing, the official added how “we [municipal law enforcement] can only enforce on properties that are reported...if tenants don’t complain...how is the City supposed to know”?

Drawing on interview and ethnographic data, this Chapter discusses municipal law-related investigations involving Hamilton’s marginalized/socially excluded.72 This Chapter’s primary goal is to discuss the role municipal law officers play in efforts to what were believed to ensure the health and safety of Hamilton’s more marginalized populations, such as the tenants described above. The opening section of this Chapter will then discuss the enforcement of municipal laws regulating Residential Care Facilities (RCFs) and vital services. Focusing primarily on the City’s vital services by-law, this section will highlight how, even though put in place to care for those in precarious housing situations, the provisions of the by-law can be challenging to enforce. This is particularly true in cases where tenants refuse to disclose information about their landlords. Often related to complaints over noise, property standards and

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72 A more thorough discussion of Hamilton’s marginalized/socially excluded will be provided below.
yard maintenance, the second section of this Chapter will discuss the difficult enforcement decisions officers are sometimes forced to make when investigating complaints involving Hamilton’s marginalized. Supplemented with interview data, this section will discuss how officers’ assessment of financial need, health and safety at times influences enforcement decisions when dealing with marginalized groups. Similar to Chapter 7, this section will also highlight how the efforts to ensure what were thought to be the health and safety of Hamilton’s marginalized sectors lead officers outside the jurisdiction of municipal law. The third section will discuss investigations involving neglectful or absentee landlords and illegal dwellings. This section will discuss how the more accommodating enforcement techniques officers deployed while interacting with the socially excluded/marginalized were seldom used when dealing with absentee landlords. This Chapter’s forth section will discuss the limits to officers’ more accommodating enforcement techniques when interacting with marginalized populations.

Similar to what has been discussed in previous Chapters, this section will demonstrate how the law itself is still very important to these investigations. This Chapter will conclude by discussing how more punitive responses often force landlords to make improvements to their properties, which in turn, helps address the tarnished physical conditions and general image of the City. At the same time, the concluding section will discuss how some enforcement decisions, although intended to ensure “health and safety,” can have detrimental effects on Hamilton’s already marginalized people by leading to displacement.

**Hamilton’s Marginalized and Economically Disadvantaged**

Prior to discussing the specific interactions involving Hamilton’s marginalized, it is important to revisit the various factors contributing to this “marginalization”. As discussed in Chapter 5, Hamilton is an economically and socially diverse City. For example, sharing a link to
Hamilton’s early role as a care provider for the region, the City is presently home to a high percentage of residents with mental and physical disabilities, many of whom are also economically disadvantaged and welfare dependant (Harris et al., 2015). As Harris et al., (2015) explain, Hamilton’s social service agencies and healthcare resources make the City a magnet for the region’s at need population. In comparison to the rest of the country, Hamilton also has a high percentage of residents whose primary source of income is government transfers.73 According to Walks (2013), in 2005, 11.8% of Hamilton’s population relied on government transfers as a primary source of income in comparison to 8.7% in Toronto and 9.5% in Kitchener. As discussed earlier, with no exception, all of the inner City Wards have a higher percentage of residents living below the Low Income Cut-off (LICO) compared to the rest of the City (City of Hamilton, Ward Profiles, 2009a). Likewise, the downtown has an average household income almost 15% lower than the rest of the City and almost 25% lower than the provincial average (Statistics Canada, 2006). With this in mind, throughout this Chapter, the terms “marginalized” and “socially excluded” will be used (sometimes interchangeably) when describing interactions with the working poor, the economically disadvantaged who are collecting disability or welfare, and those who suffer from mental or physical disability. The terms marginalized and socially excluded will also be used when describing interactions with those who rely on shelters or reside in retirement homes and residential care facilities (including those suffering with addiction). Importantly, while the marginalized described in the Chapter are not necessarily a homogenous group, a significant portion of these individuals are economically disadvantaged. At the same time, it is also important to note that officers’ assessment of

73 Government transfers refer to income generated from Canada Pension Plan, Provincial Pension Plans, Income supplements and Old Age Security as well as employment insurance and welfare programs (see Walks, 2013).
“marginalization” was subjective and varied from interaction to interaction. For the most part, however, by-law officers’ assessments of who was considered marginalized fell within the groups described above and their enforcement decisions were often based on assessments of financial need and efforts to ensure what was believed to be the health and safety of these people. Likewise, while municipal laws that regulate property standards outline “minimum standards” (i.e., the City cannot force a property owner to install granite countertops) what officers considered “safe” or “unsafe” was also subjective.

8.1: Protecting the Marginalized: Licensing and Vital Services

*Ensuring Compliance and Protecting the Marginalized*

Standing in front of a downtown Residential Care Facility (RCF), the officer leafed through the City’s copy of the property standards Order. While the officer explained how the “re-recheck” should be straightforward, he wanted to ensure the half dozen items listed on the Order were “up to code”. Making our way across the street, the officer explained how this was not a “random” visit. The officer had attended this RCF on several occasions in an attempt to address some compliance issues which emerged during the annual inspection. The officer was optimistic the phone call he placed to the RCF’s manager in advance of the visit might have reinforced the urgency of the property standards repairs. Similar to other RCFs in the City, this particular facility is owned/operated by a parent company responsible for running several other RCFs. As a result, some RCFs did not have a dedicated maintenance staff.

Stepping into the lobby of the building we were greeted by the facility’s manager who immediately apologized for the warm temperature inside the hundred-year-old building. As the manager explained, the building had several window mounted air conditioning units on the
ground floor, making the heat at least tolerable for residents and staff. Switching the topic away from the building’s muggy interior temperature, the officer outlined the exact room numbers and types of property standards deficiencies listed on the Order. Noting how the maintenance staff member had been working to fix the deficiencies, the manager led us along a hall, into the kitchen where the officer stopped to speak with several residents eating lunch. Explaining how he was visiting from the City of Hamilton, the officer proceeded to ask the residents about the food. After some mixed reviews and several minutes of chatting, we ventured up a steep staircase into a narrow hall with several rooms on each side. Arriving at the door of the first room in need of inspection, the manager knocked quietly on the door, whispering how the residents were told in advance someone from the City would be visiting. Explaining his position with the City to the woman who answered the door, the officer took several steps inside of the small bedroom to inspect the mounting of a light. Satisfied the issue had been addressed, the officer complimented the woman on her meticulously organized and tidy room. Continuing down the hall, the officer made another successful compliance check inside a different room. Proceeding back towards the stairs at the end of the hall, we were met by an older woman standing outside of her room. Greeting her by her first name, the manager explained how “the inspector” did not need to see her room because it was not listed in his paperwork. Sensing the woman’s disappointment the officer was not going to look at her room, the officer stepped towards the room mentioning how he “would love to see inside”. Providing us with a visual tour of the room including a description of several family photos, the woman noted how she had heard an inspector was coming and had spent the morning tidying up. Complementing the women for the cleanliness of her room, we proceeded down the stairs back through the kitchen and out a small exit door. After ensuring several minor exterior property standards deficiencies
had been addressed including the screen on a ground floor window, the manager noted how to her knowledge, we (referring to the officer and I) had inspected all of the items repaired by the faculty’s maintenance worker. Cross-referencing his notes with the areas visited so far, the officer identified one outstanding issue: a basement door missing the proper weather seal along the bottom.

Cooperating with the officer’s request, the manager escorted us back through the RCF’s kitchen eventually stopping in front of a smaller than regular door. Using a key to unlock the door, the manager asked that we use caution on the steep wooden stairs leading into the RCF’s basement, adding how the area was off-limits to residents. After descending the stairs and travelling through the unfinished basement, we arrived at the door listed on the Order. The door remained in violation of the City’s property standards by-law lacking any type of weather stripping along the floor. While sympathetic to the fact the facility’s manager was not personally responsible for making the repairs, the officer explained how there was an expectation the deficiency would have been addressed by now. Speaking in a stern tone, the officer noted how the repair was not optional and how the facility’s manager needed to ensure the issue be addressed immediately.

Back outside, the officer reflected on his dissatisfaction with the ongoing compliance issues at the RCF. While pleased the issues on upstairs floors and the exterior were fixed, the basement door deficiency would require another visit. Similar to others, the officer explained how maintaining compliance within the RCF industry was of utmost importance as the facilities cared for many who “could not advocate for themselves”. Although residents were not directly affected by the basement deficiency as the area was “off-limits”, letting the door “slide” might imply a leniency the officer did not want to portray.
As outlined in Schedule 20 of the licensing by-law, Residential Care Facilities care for those unable to “provide the activities of daily living” on their own. As several officers explained, RCFs care for those who suffer from physical and mental illness, those dealing with chronic health problems and individuals recovering from addiction. While also governed by other provincial legislation, Schedule 20 regulates everything from the size of common areas and bedrooms to the nutritional content of the food served within a RCF. Subsection 12(e) and 12(f) of Schedule 20 also require Residential Care Facilities to provide residents access to a telephone in a private place, where conversations cannot be “easily overheard”. Subsection 12 (f) of Schedule 20 also requires facilities to “post a notice stating the operator is licensed by the City of Hamilton and that a complaint about the operation of the facility may be made by telephoning the City of Hamilton”. As one officer explained, although residents seldom call to complain about the operators of the facilities in which they reside, posting the City’s number does give them (residents) the option.

Similar to the enforcement of Schedule 25 which regulates taxis, officers suggested upholding the requirements of Schedule 20 were informed by efforts to maintain safety for those residing in RCFs. This Chapter will therefore discuss several examples where officers appeared to have gone out of their way to help the marginalized, the stipulations within certain laws (e.g., Schedule 20) mandate this type of attentiveness is given in order to protect certain sections of Hamilton’s population. Although a more in depth discussion on absentee property owners will
take place later on in this Chapter, Hamilton’s vital service by-law serves another noteworthy example of a municipal law put in place to protect marginalized sectors of the population.\textsuperscript{74}

As briefly discussed in Chapter 7, section 6(3) of Hamilton’s vital services by-law requires a utility provider to notify the City of Hamilton’s by-law department 30 days prior to discontinuing services to a property. Officers then attend the property and issue a letter to the tenant(s) outlining how they are no longer required to pay the landlord for utilities (the same letter is also sent to the property owner). As outlined in section 8(8) of the by-law, the Ontario Municipal Act allows the City of Hamilton to add any reconnection fees or additional costs incurred plus a 15\% administration fee to the property owner’s tax role. If the property owner does not pay the fees, section 11(1) allows the City of Hamilton to collect the total amount of rent from tenants until the amount owing is recovered. Section 10(1) of the vital services by-law authorizes the City of Hamilton to place a lien on properties where costs have accumulated.

While the vital services by-law is put in place to protect the tenants of rental properties from neglectful landlords, the street-level enforcement of this law is far from straightforward. For example, on most new properties the utilities shutoff is located on an exterior wall where a small lever allows a utility company to turn off the supply of gas. When turned to the off position, the utilities company installs a small lock to ensure a tenant/property owner does not manually restore the supply of gas to the building/house (this could be done with common tools

\textsuperscript{74} According to City Housing Hamilton (2016), the City of Hamilton owns 7000 social housing units dispersed across 1295 properties. Hamilton’s social housing provides refuge to over 13 000 residents (City Housing Hamilton, 2016). While a majority of the interactions with Hamilton’s marginalized described in this Chapter took place in privately owned rentals, officers did at times investigate complaints at City owned properties. For example, on several occasions I attended City owned properties to investigate cases of illegal dumping. Likewise, during Project Compliance officers proactively inspected several City owned high-rise buildings. Given the fact Hamilton City Housing is a separate department from municipal law, it is probable that tenant complaints would be handled by Hamilton City Housing staff and managers instead of the enforcement officers I accompanied.
found in most households). However, there are cases in some older or illegally renovated homes where the utilities shutoff is located inside the building/home. During my time in the field, I attended one particular property several times with an officer in an attempt to speak with the tenant(s). While unable to speak with the tenants during each visit, the officer pointed out how a shed-sized wooden structure with a locked door had been built around the rental property’s original backdoor and utility shutoff. As the officer explained, this case had caused a minor dispute between the utility company who wanted to shut off the supply of gas and the City who wanted to first speak with the tenants.

If physical barriers were not enough, municipal law enforcement officers also encountered social barriers when attempting to enforce the vital services by-law. On one occasion, we attended a downtown property where the utilities services had already been cut-off (this only took place in the summer months when heat was not required). After knocking on the door, the officer was met by an angry tenant who accused the officer of being the one who cut off her utilities. Despite the officer’s best effort to convey the stipulations of the by-law, the irate woman eventually closed the door, ending the conversation. Back in the vehicle and reflecting on the interaction I had just witnessed, the officer discussed how he had hoped to get the landlord’s contact information in order to call and explain the by-law and the actions taken by the City. As the officer explained, tracking down absentee property owners can be complicated, especially if the address of the rental property matched the address on the tax registry but was not where the actual owner resided. Sketching out a hypothetical scenario, the officer explained how a landlord might live in Toronto, but own a rental property in Hamilton. Based on municipal tax records, the only address the City would have for the landlord is the Hamilton address. As a result, a property standards Order or a vital service letter might never
reach an absentee landlord but instead be sent to the rental property. As the events described below demonstrate, in some cases tenants living in precarious housing situations were reluctant to share information about property owners.

_The Absentee Landlord and the Tight-lipped Tenant_

Standing on the house’s large concrete patio, the officer I was accompanying explained how he doubted any of the tenants would answer the door. Despite the four separate mailboxes secured to front of the house, the officer discussed, based on previous experiences with vital services investigation, tenants were often reluctant to speak with anyone from the City. Expressing a view shared by other officers, this particular officer explained how it was not uncommon for people living in illegal or single room rental units to fear eviction or the possibility of their rents being raised if they were to complain. As the officer went on to explain, based on previous investigations involving vital services, many of the tenants in these types of rentals, some of which were clear zoning violations, pay on a monthly basis with no formal lease agreement.

Having given up on speaking with anyone who resided in the large brick house, the officer left the porch and proceeded to walk around the side of the property in hopes of locating another entrance. Stopping at the house’s utilities shut-off, the officer bent down to inspect the small lock installed by the gas company. Reiterating what others had told me, the officer explained how the utilities company would only shut off the gas in the summer as it would be “inhumane” to cut off someone’s heat in the winter months. Continuing around the backyard, the officer pointed out how some of the upstairs windows had proper blinds where others had what appeared to be bed sheets blocking out the light. While municipal laws do not mandate a resident has to install blinds or prohibit the use of bed sheets in windows, the officer explained
how based on previous vital services investigations, the combination of different window
dressings was often another sign that multiple tenants resided in the house (this was also the case
in other investigations). Redirecting the conversation back to the vital services law and the
possibility that people were living inside without running water, the officer noted how whether
or not the zoning of the property allowed for multiple tenants was irrelevant to today’s
investigation.

Standing beside the municipal law vehicle, across the street from the house, the officer discussed
how several minor adjustments to his planned schedule might allow time for a revisit to the
property later in the day. Just as we were about to climb inside the vehicle, a man wearing jeans
and a t-shirt emerged from the backyard of the property. Pacing across the street, the officer
approached the man near the end of the driveway, asking if he resided inside the home.
Although posed as a simple closed, yes or no question, the man, obviously hesitant to disclose
any information, remarked how he was “late for a meeting” and did not have time to talk. Not
wanting to miss out on the opportunity to gain information about the property’s owner, the
officer explained how the man was not in trouble. Sensing the man’s reluctance to divulge any
information, the officer in a rather blunt tone, informed the man how he was there to make sure
the hot water was restored. Becoming almost immediately attentive, the man explained how
“technically” a family member rented a room inside the home. The man went on to explain how
his family member had moved out and he had “taken over the room”. Probing further the officer
asked the man who he addressed the rent cheque to. Shrugging his shoulders, the man explained
how he paid his rent in cash to a guy who stopped by near the end of the month to “collect”.
Clarifying what the man was implying, the officer repeated the man’s story emphasizing how he
paid his rent to a “guy” who comes to “collect”. Shaking his head as if to agree with the
officer’s understanding of his story, the man turned and began to walk away, encouraging the officer not to bother asking the guy’s name because he did not know. As the man continued down the sidewalk transitioning from a brisk walk to a slow jog, the officer turned to me, remarking how “unbelievable” it was to think someone would be unwilling to disclose the name of a landlord who was not even paying the gas bill.

* * *

While it would be naive to suggest the City’s diligent attempts to contact tenants is not at least partially motivated by the desire to recover the costs they are incurring by taking over the utilities bill (having the tenant pay the City not the landlord), this was never discussed by frontline officers. In fact, the officers who investigated vital service cases were primarily focused on establishing contact with at least one tenant residing in the house or building where utilities had been shut off. As the interaction described above would suggest, some tenants were reluctant to disclose information about their landlord to investigating officers. Several officers who took part in vital service investigations discussed the reasoning behind this reluctance on the behalf of tenants. As one officer explained:

Some people [tenants] see us [municipal law enforcement] and assume it’s bad news…maybe it’s the uniform, they think we’re the police coming to evict them or something…on top of that if we do make contact with them, they don’t want to rat on their landlord because this might be their only option. A lot of them also rent month to month with no first and last, no signed lease…just a verbal agreement…these landlords end up having control over the agreement.75

75 Hamilton does not have a citywide Rent Control by-law. Instead, rents are regulated by the Residential Tenancies Act (2006) and Landlord and Tenant Act. Rent increases are set by the province of Ontario on an annual basis. Landlord’s who wish to increase rent above the provincially mandated maximum must apply to the Landlord and Tenant Board.
Similar to other investigations involving the marginalized, the logic informing the enforcement of the vital services by-law was also framed around ensuring “safety and maintaining a reasonable standard of living”. Interestingly, even in cases where it was unclear whether the property they were attending was conforming to the zoning by-law, officers remained focused on establishing contact with the tenants. This is not to suggest the City of Hamilton turns a blind-eye to illegal apartments: as will be discussed in later sections, during my time in the field, I attended several properties where zoning restrictions were stringently enforced.

More so than other municipal laws enforced in the City of Hamilton, Section 20 of the licensing by-law regulating Resident Care Facilities and the provision outlined vital services by-law sought to ensure the health and safety of Hamilton’s marginalized population. Importantly, given the economic diversity of the City of Hamilton and the City’s role as a social service hub, municipal law officers interact with marginalized/socially excluded populations on a consistent basis. These interactions often took place during the course of an officer’s daily routine of investigating municipal law-related complaints.

8.2: Protecting the Marginalized: Daily Interactions

Shelter from the Storm

Driving through the downtown core, the officer I was accompanying provided a general overview of the upcoming investigation explaining how the complainant was upset about the level of noise coming from a shelter located in the neighbourhood. As we approached our destination, the officer discussed how it was important for all industries, no matter the clientele, to abide by the noise by-law.
Arriving at the shelter and parking on a neighbouring side street, the officer and I proceeded to walk alongside the building, eventually reaching the front door. During the short walk, the officer mentioned how she had called the shelter’s manager earlier in the week to arrange the upcoming visit. Depending on the investigation and the nature of the business itself, a courtesy call ensured a manager or supervisor would be present when an officer arrived.

Entering the building, we were met by the shelter’s manager who, after a brief introduction, offered to take us on a tour. Kindly declining on the grounds that her busy schedule did not allow the time for a tour, the officer explained how the City had received a complaint about the noise coming from the shelter. Without hesitation, the shelter’s manager suggested the complainant was most likely a local resident who had visited the shelter several times to complain about the noise. Given the manager’s extended tenure at the shelter, this particular resident was the only one who had ever complained about noise. The manager went on to explain how on a recent visit, the local resident [who the manager assumed was the complainant] had become verbally abusive to his staff. Saying little, but undoubtedly retaining all of the new information, the officer asked what “in-house” noise policies the shelter had for guests. Noting how all the shelter’s policies were strictly enforced, the manager explained how any disruptive activities [including loud noise] were not permitted, adding how the shelter’s curfew also ensured any noise coming from guests smoking outside would be minimal in the night-time

76 Officers would often park down the street from properties under investigation. In cases of noise, this distance allowed officers to establish a point of reception. In other investigations, this technique ensured officers would be out of sight of property owners and/or complainants. This distance was also important after officers had visited a property under investigation. For example, this distance would often allow officers to finalize their notes after an investigation without being interrupted by a party involved in the investigation. While this technique was not used necessarily to ensure safety, it did prevent complainants/those under investigation from interfering with the post visit stages of investigations (for example, filling out a Compliance Order).
hours. After explaining the likely to disturb clause, the officer gave her card to the manager instructing them to call if they had questions.

Walking back to the municipal law vehicle the officer discussed how she was not happy about the news a local resident had been so disruptive with the shelter’s staff. Although it was unclear whether he was the complainant, the officer noted how this type of activity was unacceptable given that shelters are places where residents should feel safe. Retrieving her City-issued phone from her pocket, the officer called the complainant. Discussing the City’s noise by-law and the shelter’s in-house noise policy, the officer explained how she did not feel there was a need to press any type of charge. After several more minutes of discussion, the officer gave the complainant her City extension, encouraging them to call if the noise persisted. Sitting in the front passenger seat of the vehicle, I watched the officer intently listen to the complainant’s response. Speaking so loudly, the officer had temporarily moved the small flip-phone away from her ear, the officer listened to the complainant for another minute before interrupting. Speaking in a stern tone, the officer lectured the complainant how the shelter’s clientele was irrelevant to the noise issue. Informing the complainant how she [and the City] saw the shelter as “just as important to the neighbourhood as anything else” the officer added from this point on, if the complainant had an issue with the shelter they were to contact her directly. Based on the information the complainant just disclosed, the officer also warned how it was also inappropriate for the complainant to have visited the shelter on multiple occasions to complain to the staff. After several additional minutes of less intense dialogue, the officer reiterated how if the noise persisted she would return and continue the investigation. As a way of “preventing” the complainant from returning to the shelter, the officer noted how she would “drop everything” if
she received word the noise had persisted. Ending the conversation in a less pleasant manner than the phone call had begun, the officer repeated her City extension and ended the phone call. Letting out a sigh, the officer explained how the complainant had disclosed they were in fact the one who had visited the shelter to complain. While the officer had no evidence confirming the shelter manager’s claim that the complainant had been verbally abusive, if her recent conversation was any indication of the complainant’s demeanour, it was quite possible. After documenting the discussions with the shelter manager and the complainant in her notebook, we left the neighbourhood. Travelling to our next investigation, the officer repeated her displeasure with the complainant’s decision to visit the shelter on multiple occasions, noting how the staff or residents should not have to deal with that. With this in mind, although it may prove to be an inconvenience, she would much rather have to rearrange her schedule to revisit the shelter if it prevented the complainant from returning.

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Similar to the investigation described above, there were several occasions during my time in the field where a complainant’s concerns about a potential municipal infraction was accompanied by additional worries about the “type” of service provider violating the local law. While this type of NIMBYISM, specifically directed at Hamilton’s socially excluded populations (or the social service providers who care for those excluded) was not a regular theme during investigations, there were several notable examples. For example, on one occasion during a property standards investigation a woman identifying herself as a local business owner stopped an officer to discuss the property we were inspecting. Although the officer was more concerned about the chicken wire installed on basement windows and subsequently the health of those
living inside the building, the woman went on a long rant about how the messy property and the people who resided in the “dumpy building” had a detrimental effect on her business. Patiently waiting for her to finish, the officer informed the woman how his primary concern was to ensure the property was complying with municipal laws. Repeating how the safety for those living inside was also a concern, the officer instructed the woman to call the City if she was concerned about any municipal law violations on the property. This type of street-level NIMBYISM directed towards Hamilton’s more visibly marginalized, specifically those who rely on social services in the downtown core, also made its way into Council chambers during my time in the field.

As discussed within the legal geography literature, municipal governments in Canada yield limited legal power to enact legislation aimed at addressing localized issues (see Valverde, 2005). As a result, when municipal governments seek to address issues perceived as detrimental to a town or city, they tend to rely on Section 34 of the Ontario Planning Act allowing local governments to pass laws regulating permitted land-uses. As demonstrated in past studies, these local land-use restrictions hold significant regulatory power, governing, for example the locations of homeless shelters (see Ranasinghe and Valverde, 2006) and group homes (see Finkler and Grant, 2011). A similar regulatory approach is used in Hamilton where the zoning by-law has a radial distance separation clause for Residential Care Facilities, retirement homes and long-term care facilities requiring spacing of 300 metres. In addition to the power granted under Section 34 of the Ontario Planning Act, Section 128 of the Ontario Municipal Act (2001) suggests “a local municipality may prohibit and regulate with respect to public nuisances, including matters that in the opinion of Council are or could become public nuisances”. The regulatory power of Section 128 of the Ontario Municipal Act and Hamilton’s ability to pass
new regulations to curb nuisance in the downtown core became a contentiously debated issue during my time in the field.

During the summer of 2014 a “special issues” council meeting was held to debate the need for a new municipal law enabling the City to displace or fine people loitering in public places. The larger debate began several weeks prior to the public meeting when a property manager complained about people loitering and engaging in occasional drug dealing in front of the entrance to an office tower. Giving her delegation in front of City Council, Hamilton Police and Municipal law officials as well as a large group of anti-poverty activists, the property manager explained how the higher-than-normal vacancy rates in the downtown office tower she oversaw was because of the “nuisance loitering” in front of the building’s only entrance. In an attempt to validate her claim, the property manager explained how executives from a large multi-national corporation had recently visited the office tower to assess its suitability to house a Canadian head office. After returning overseas, the property manager claimed she received an email from the corporation explaining how the executives felt safer in some third world country than they did standing outside the office tower. While adamant a solution should benefit all parties involved, the property manager ended her delegation by recalling how the City encouraged her to use the building’s exterior speakers to broadcast some type of music the loiterers would disapprove of, potentially leading to their dispersal from the area. Taking the City’s advice, the property owner’s classical music was only audible for several days before a municipal law officer attended the property, informed her about a noise complaint and instructed her to turn off the music. After the meeting concluded, I walked back to the office with a municipal law official who had also attended the planning meeting. Satisfied with the decision that no new municipal by-law was needed to address the loitering/nuisance issue, the official

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explained how many of the downtown social service providers, shelters and “soup-kitchens” operated on limited daily/hourly schedules. As a result, some “at-need people” had no place to go during the daytime hours other than the public spaces in the downtown core.

Similar to the post-planning meeting discussion described above, the municipal law officers who took part in this study often spoke about the downtown’s economic diversity and higher concentration of “at-need” or socially excluded residents. Likewise, officers were also aware of how street-level enforcement decisions affected Hamilton’s “at need” or “financially disadvantaged” sectors. While there were times where decisions had unintended consequences, this awareness led some officers to take a more accommodating, lenient, or what one municipal law official called “soft-approach” to enforcement. Interestingly, this soft-approach was taken even when complaints had been lodged by City Councillors.

The Yard Sale

Arriving at the expansive downtown property, the officer explained the general nature of the complaint. As was clear from the vantage point offered by our curbside parking spot several hundred feet away, the property’s front lawn was covered with clothes, several large pieces of furniture and other household goods. According to the officer, the City had received a complaint from a Councillor’s office about how the multiple tenants had been hosting the yard sale for several weeks, occasionally bringing the goods back inside the house. Furthermore, the fact the complaint had come in from a Councillor’s office meant most likely several residents in the Ward had complained. As the officer went on to explain, the ongoing nature of the sale meant technically the tenants were running a business, requiring a pedlar’s licence under Schedule 12 of the licensing by-law. Similar to other licensing investigations, if the officer wanted to press a
charge for operating without a license, he would have to witness the exchange of money and goods. Further complicating the investigation, the officer had learned the tenants had all been sent eviction notices as the property’s owner had defaulted on the mortgage. Given the situation, the officer planned to speak with the tenants and instruct them to pack-up the yard sale.

As we approached the property, the officer remarked how it appeared “they [the tenants] were selling everything they owned”. Standing on the sidewalk in front of the property the officer and I took a visual inventory of the goods for sale including more household furniture, several lamps, well over 100 pieces of clothing, some children’s toys and several open bags of diapers. Divided into several clusters, the officer hypothesized the goods had been arranged by tenant.

Approaching an older woman sitting on the stoop in front of one of the house’s multiple entrances, the officer asked how the yard sale was going. After several seconds of thought and a drag from her cigarette, the woman conceded the sale was not going so well. Before the officer could respond, the women explaining how nobody wanted to buy her stuff, which was problematic as she was being “kicked out” of her place in the coming weeks. Careful not to disclose his prior knowledge of the situation, the officer asked the woman why she would not simply take her belongings with her. Extinguishing her cigarette in what appeared to be a soda can with the lid removed, the women explained how at this point she had no “leads” on a new place to live and had no place to store her belongings. While her friend had agreed to “put her up” for a couple of days, after that she would be on her own. Sympathetic to the women’s dilemma, the officer explained how the yard sale needed to end in the coming days.

Emphasizing how he “wasn’t trying to be the bad guy”, the officer explained how he would allow the sale to continue until the end of the weekend. Given it was a Thursday, this would allow several more days for the woman to sell off her goods. Shaking her head in agreement, she
thanked the officer for “kind of understanding”. Seeking the woman’s assistance, the officer asked if she knew the other people “hosting” the yard sale. Pointing to a middle-aged man across the lawn, the woman requested the officer give him the “same end-of-the-weekend deal”.

After navigating our way across the yard and past several people scavenging through the merchandise, we waited patiently for the other tenant to finish a negotiation with a would-be buyer. Despite being unsuccessful in selling one of his items, the man greeted the officer with a kind tone. Similar to the other tenant, the man explained how he and his children were being forced to leave because the bank was taking possession of the house. After a failed attempt to sell the officer several large items from the lawn, the officer explained how a complaint had been made about the sale and he was giving him until the end of the weekend to pack things up.

Unlike the other tenant, the man explained how he had a truck coming early next week to help move. Assuming the man had secured another place to live, the officer asked where the man was moving. Informing the officer he had misunderstood, the man explained how he and his children were moving in temporarily with a family friend but hoped to find something permanent soon.

Ending several moments of awkward silence, the officer repeated how all the merchandise on the lawn needed to be cleared by the end of the weekend adding how, given the evening’s rainy forecast, it might not be a bad idea to start cleaning up now. Quick to respond, the man reassured the officer he had a couple of large tarps in case it rained.

After receiving verbal reassurance the lawn would be clear of merchandise by the end of the weekend, the officer asked the man if he had any further questions before we departed. Thinking for a brief moment, the man asked the officer if he knew anything about “getting rid of bugs”. Caught off guard by the man’s question, the officer asked if he could clarify what he meant. Without hesitation, the man explained how each night before bed he sprayed his children and
their beds with bug spray in an effort to keep away the cockroaches that had invaded his apartment. Before the officer could respond, the man added how he was thinking about using something stronger but feared it could be poisonous. Still noticeably awestruck by the admission, the officer clarified the man was not mistakenly referring to bed bugs. Verifying his previous statement, the man explained how while the unit had “always been infested by bed bugs” his primary concern was dealing with the cockroaches. Taking a moment to gather his thoughts, the officer explained how the man needed to call the City’s public health department to discuss the issue. Depending on the severity of the infestation, the officer also recommended the man and his children find another place to stay until their move out date. As a light rain began to fall, the man thanked the officer for his advice and then quickly scurried towards a large tarp piled beside the house.

Back inside the municipal law vehicle, the officer and I sat in silence for several moments as the rain pounded the windshield. Breaking the silence, the officer turned to me, expressing how calls “like that one” are always the toughest. Noting how issuing a Compliance Order would be pointless given the situation and the tenant’s imminent departure, the officer explained how he hoped things worked out for everyone living in the home. Placing the interaction within a broader context, the officer explained how for some Hamiltonians the living conditions we just witnessed are an everyday reality. Attempting to put things in a positive light (like this particular officer always did), he noted how perhaps being evicted from the rooming house was a blessing in disguise for the tenants.

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Similar to the *Shelter from the Storm* and *Yard Sale* cases, interactions with Hamilton’s marginalized often took place during the course of complaint-based investigations involving concerns about issues like noise, property standards and licensing. For the investigating officers, although upholding the law always appeared to be a priority, enforcement decisions were often made with Hamilton’s marginalized population best interests in mind. In some cases, similar to the *Yard Sale* investigation, this meant offering an extended duration of time to comply with an officer’s request. In other cases, like the *Shelter from the Storm* investigation, officers would take on a mediation role if it meant keeping socially excluded/marginalized sectors of the population free from the hassle of a neighbour or local resident.

Similar to what was discussed in Chapter 7, there were also occasions when officers’ attempts to protect the marginalized, specifically in regards to health and safety, meant working outside the jurisdiction of municipal law and the daily responsibilities associated with upholding the law. Interestingly, unlike the debates surrounding whether reactive officers should engage in proactive enforcement, municipal law officials supported officers who went out of their way to assist the socially excluded/marginalized. As one municipal law official discussed:

Recently we had an officer who went to do a property standards investigation. When the officer got there, the conditions were deplorable and he was going to write Orders but when he was there he found out that they had no food, so he got in his vehicle and drove to a food bank and returned with five bags of food…I mean we've got lots of those types of stories... It is clear that people need our help…I think MLE [municipal law enforcement] way back, used to be seen as a bad thing…but I think that’s changed…people see us in a more positive light…a lot of that has to do with what our officers do beyond enforcing the by-laws.
A different municipal law official shared a similar story during an interview about an investigation involving a pedlar who was operating without a licence. According to the municipal law supervisor:

The pedlar was selling her jewelry in front of some of the businesses, and the businesses called us to say she [the pedlar] needs to move along. There was political tension and business tension, so I said to him [the officer] I want you to speak to that lady [the pedlar] and get her to move along. We [the City of Hamilton] were not going to charge her… it was going to be a real soft approach… He [the officer] came back and I asked ‘how did it go?’ He said it went well… but when he moved her along she said this is her only extra income. She then asked him for five bucks for lunch. He said ‘no I can’t but I will take you to lunch’… He took her over to Jackson Square and bought her Taco Bell. As a pedlar she can’t afford to get a license, so he was looking at what City events are around that she could go to where she doesn’t have to pay, and he looked in to things for her and gave her his card. He got her the list of shelters because she was homeless.

During another interview, a different municipal law official explained how the interaction with the illegal pedlar resulted in the implementation of a program that allowed unlicensed vendors to set up in a designated stall at a local outdoor market. As the official went on to discuss, this program was put in place to allow those “less fortunate” to sell their goods without having to pay for licences.

While in some cases, concern for the well-being of the marginalized meant taking a “softer” or even charitable approach to enforcement, in another cases attempts to ensure safety and a reasonable quality of life meant becoming involved in disputes governed by the Landlord Tenant Act, not municipal law. For example, on one occasion I accompanied officers as they responded to a noise complaint in a low-rise apartment in the downtown. Similar to other investigations involving this type of apartment, the officers could not hear any noise from the building’s exterior. Emerging from the building, a young woman who identified herself as the
complainant explained how the tenant who resided beside her unit was a constant disturbance. Explaining how her dire financial situation and the less than favourable circumstances in her family home made her present “low-rent apartment” a necessity not a choice, the young women outlined how she and several other tenants had spoken with the buildings management multiple times about the noise. Confirming the disturbance had been ongoing for some time and how the building’s management had done nothing to address the young woman’s concerns, one of the officers handed over his card, informing her how he would assist her initiate an “N-5”. As the officer explained, the N-5 form allowed landlords to end the tenancy of anyone who was interfering or disturbing others. Taking the officer’s card, the young woman told the officer she would be in touch.

While in some cases looking out for the marginalized was part of a conscious decision, in others cases the circumstances left officers little choice. While I did not attend the property, during the summer of 2014 an officer who participated in my study, visited a property to investigate a complaint about several yard maintenance issues. As the officer explained in the days following the investigation, when the mentally ill resident opened the door to the house, the officer was so overwhelmed by the smell that he immediately turned away and vomited. Sensing something might be seriously wrong inside the property, the officer called for police assistance. Entering the house alongside the Hamilton Police, the officers found a three-year-old boy covered in feces and fleabites living amongst piles of garbage, a paralyzed dog and numerous deceased cats.

While blatant health and safety concerns influenced enforcement tactics, these techniques were also shaped by officers’ perceptions of residents’ socio-economic status; specifically the ability to pay for needed repairs. For example, during a ride-along, one officer explained how he
had been working with a property owner for close to 4 months to get her property “into compliance”. As the officer explained, after issuing a Compliance Order and speaking with the older woman, he learned how she lived on a very strict budget and could not afford to address all of the yard maintenance issues on her property in the period originally specified. While the officer could have requested private contractors to complete the needed maintenance and have the fees added to the woman’s taxes, the officer decided instead to allow the woman to find her own contractor who she paid for several hours of work per month. A different officer shared a similar story explaining how he issued a property standards Order to an elderly woman living in an old Victorian home in the downtown. Unlike the yard maintenance example, the deficiencies on the woman’s home needed immediate attention. Fearing the repairs might be so costly she would have to sell her beloved home, the officer explained how he was careful to only list the minimum essential repairs on the Order. A week later, the woman contacted the officer explaining how a contractor had come and given her an estimate for the repairs but had added a long list of additional and costly work not listed on the Order. After reviewing the estimate, the officer called the contractor to discuss the property standards Order and the exact repairs required to bring the property into compliance. Several days later, the contractor called the officer explaining how “some” of the work listed in the original estimate was perhaps not as urgent as originally thought. Later in the week, the elderly woman contacted the officer informing him the estimate had been “significantly reduced”.

As this section has demonstrated, many of the officers who participated in this study went to considerable lengths to ensure the health and safety as well as the personal and financial well-being of Hamilton’s marginalized. Although this more accommodating approach was not used in all cases, in a majority of interactions with the marginalized, officers deployed what one
official described as “soft” enforcement techniques. Importantly, while these techniques were often deployed when interacting with Hamilton’s socially excluded/marginalized sectors, these enforcement techniques were seldom offered to landlords, especially in cases where their neglect threatened the safety of tenants.

8.3 Protecting the Marginalized: Absentee Landlords, Illegal Dwellings and Displacement

The “Generous” Absentee Landlord

On a Saturday evening in early July, two of Hamilton’s municipal law enforcement officers received a special request from the Hamilton Police. After arriving at the downtown property, the municipal law enforcement officers were informed the Hamilton Police had responded to a call from a landlord who had accused his tenant of doing some “unauthorized renovations”. The landlord accused the tenant of tearing down large sections of the ceiling and floor of the main floor of the large Victorian-style house. While the police had calmed the tension between the landlord and tenant, the responding officers believed that in the process of removing parts of the floor and ceiling the tenant compromised the rear structure of the house. Despite the fact the responding municipal law officers were not trained building inspectors, they agreed to do a walkthrough of the house in order to assess the extent to which the renovations may have compromised the stability of the house. Walking around a large pile of floor tiles blocking part of the front entrance it was immediately apparent the renovations (or, more accurately, the demolition) had caused considerable damage to the already worn structure of the house and had exposed bare roof joists and weather soaked plywood. Prior to entering the home one of the officers also pointed out to me the small “rooms for rent” sign that had been crudely nailed to the top of the front porch. Voicing concern for the small child’s bed that was covered in dust from
“renovations”, the municipal law enforcement officers requested the landlord inform them of how many tenants lived in the house. After about ten minutes of banter that had little to do with the original question, the officers decided to do a “full walkthrough” of the house to assess if the landlord was operating an illegal rooming house. While the landlord was insistent that he had “told the City what he was doing with the property”, the officers insisted on completing an inspection.

As we took the assent up a wide hardwood staircase, it became clear the physical disarray and makeshift renovations in the downstairs were just a preview of what was to come. By the time we arrived at the top floor one of the officers alerted me to numerous property standards and building code infractions including a broken window that was missing its screen and a light fixture that was missing its hardware and that had exposed wires; this was accompanied by a scattering of garbage on the stairs and second floor.

As predicted by the officers, the upstairs was home to one bathroom and four bedrooms, each of which had an exterior door lock. As standard procedure in these investigations, the officer proceeded to knock on each door in order to assess if they were presently occupied by tenants. Despite the flash of lights coming from under the first door (most likely coming from a television), no one answered. However, the knock did get the attention of a tenant who lived across the hall. Seemingly unaware of the potential illegality of her single room dwelling, she proudly gave the officers a visual doorstep tour of her room, mentioning several times that she had a television and a radio. Modestly decorated, noticeably cleaner than the rest of the house and located in a part of the home that officers felt was safe given the downstairs demolition, the tenant discussed in detail how great her landlord was and how if it was not for him, she did not know where she would live. She went on to explain that her $200 per month rent allowed her a
decent quality of life and allotted her enough money to “decorate her room”. An inspection of another room in the dwelling revealed a tenant with a similar story. Both tenants mentioned that they could not afford to pay any more than their modest rent and were thankful for their landlord’s generosity.

Satisfied the downstairs dispute had been settled, the officers returned to the front lawn to share notes and decide the appropriate next steps. After a lengthy discussion about the condition of the property, a consensus was reached amongst the police and municipal law officers that while they could not imagine living in such conditions, the tenants were at least safe. Prior to leaving the property, the municipal law officers also informed the police how they would initiate a more thorough investigation into the properties potential zoning infractions during the following week.

Later on that evening, the officers discussed several of their previous experiences with similar types of properties. As difficult as these types of investigations were, the officers both agreed that pursuing a furthering inquiry into the zoning of the property we visited earlier in the night was appropriate given the conditions inside the common areas of the house. As one of the officers noted, if the property was in fact violating its zoning, the tenants would be given adequate time to find a new place to live.

*   *   *

More so than the other types of investigations I observed in the field, those involving illegal dwellings and absentee landlords were often the most complex. As City documents suggest, roughly 30% of rental properties in the City are considered illegal according to the zoning by-law (City of Hamilton, 2013a). This is not to suggest all rentals deemed illegal through Hamilton’s zoning by-law are unsafe or owned by absentee landlords. However,
Hamilton does have a shortage of quality affordable housing. In fact, City reports suggest there are roughly 5500 households waitlisted for what the City Calls Rent-Geared-to-Income housing (see City of Hamilton, 2013). Making the situation more problematic, Hamilton’s privately owned, legal stock of rental housing is aging. According to City documents, most of Hamilton’s existing rental housing was built prior to 1980 (City of Hamilton, 2013). Census data suggests that 31% of these units need minor repairs and 12.5% are in need of major repairs (Statistics Canada, 2006). As a result, roughly 7600 renter households are living in units that are in need of serious repair (City of Hamilton, 2013). Given the lower City’s aging infrastructure, higher density and concentration of social services, a majority of the illegal dwelling investigations I took part in, a significant portion involving absentee property owners, took place in the downtown.

Interviews with City planners and municipal law officials shed further light on the complexity of the illegal dwellings/absentee property owner issues in the downtown. Interestingly City planners and municipal law officials offered a range of different opinions as to why absentee landlords presented such a challenge for the City. Some of these opinions shared a close relationship to Hamilton’s broader rejuvenation efforts. For example as one planning official discussed:

They [absentee landlords] are definitely problematic, you can't get a hold of them when there is an issue…it could be a derelict building that has been derelict for many years…you have multiple issues if you can't get a hold of them, they are not complying it does take away from our streetscape. It also has a huge impact on surrounding properties, I mean people find it difficult to get insurance because of the desolate buildings in the neighborhood, it really does have a fundamental impact.

Discussing the high percentage of run-down properties along Barton Street, a different planning official suggested:
They’re [absentee landlords] a challenge because many of them do not live here, there is no social pressure for them to improve their properties…they are anonymous. We do reach out to these people but I think one of the better approaches is to tell them the social implications… Appeal to the human side…discuss with them what they’re doing… You got to convince them that they can improve their property… If everyone on the street improves their property, the property values are only going to go up.

Similar to broader trends identified in the urban geography literature, clusters of deterioration in Hamilton’s downtown, particularly in some commercial corridors, can be linked to the “cycle of depreciation and deinvestment” (see Lees et al., 2008, p. 53). Furthermore, as property values depreciate, landowners sometimes choose to spend the bare minimum on maintenance hoping that eventually their property values will increase as investors become more interested in the area (Lees et al., 2008). Discussing how this trend was problematic in the downtown core, one planner suggested:

There are some cases where we [the City of Hamilton] have went in and talked to them [the property owners] about the conditions of their properties. I don’t know what some are thinking…we know that some of them are holding out…they think that one day the property is going to be worth a million dollars…maybe they’re right, who knows with the way things have being going lately… but from our perspective, [the City of Hamilton] you can’t let a property just sit there and rot.

While sections of the downtown core are experiencing renewal, some of the commercial corridors that once catered to Hamilton’s industrial workforce are in particularly poor physical condition. As mentioned in previous Chapters, the Barton and Kenilworth neighbourhoods are home to a high concentration of physical disorder including dozens of illegal dwellings. Located at the street-level and zoned for commercial purposes, many of these properties have been illegally converted into residential dwellings. Shedding light on how geographically-segregated economic renewal has been in Hamilton, one planner explained:

A lot of it comes down to economics. I think for some of them [landlords] it’s easier to get a residential tenant, notwithstanding they are illegal, but they are going to get that rent
from that person opposed to taking a risk on a storefront that might not last…the residential tenancy is reliable.

Several planning officials discussed the complexity of addressing the issue of illegal conversions in the Barton and Kenilworth area and how the enforcement of the zoning by-law could impact Hamilton’s limited stock of rental units. As the planner discussed:

Certainly we do have absentee landlords that do not keep up the investment, perhaps are just bilking the investment… like a cash cow taking money out of it but not putting anything back into it and that contributes to deteriorating quality…The flipside of that, however is how do we ensure, whether it is through enforcement or other means that we can keep the rental stock that we have because we go back to that supply issue of not keeping up with supply, the existing rental stock takes on more of a valuable role particularly for affordable housing…If enforcement leads to the loss of units, because they may not be up to standards or they may not be zoned appropriately, we might be addressing the quality issue but then we are losing out on the supply.

Similar to the officers who participated in my study, municipal law officials discussed the issue of illegal dwellings and absentee property owners within a broader context of ensuring the health and safety of tenants. When asked what role municipal law enforcement plays in combating the issue of illegal dwellings, one municipal law official discussed how:

The main goal with these rental properties is safety of tenants... I mean we did have a fire in a unit in the City where people died... To make sure that everyone has a proper place to live and has to be safe…it has to be well-maintained.

As a follow-up, the same official was asked about the zoning by-law and how the City balances improving safety while not displacing tenants. The official responded by explaining:

Last thing we want to do is have a tenant displaced... But having said that, we do not want to have anyone exposed to a risky place, so health and safety is number one in what we are trying to do. When people are displaced…I mean you’ve seen it, it does happen…agencies get involved to help relocate these people to somewhere where they will have a better quality of life.

As my time in the field revealed, while officers would often use a very accommodating approach to enforcement when dealing with the marginalized (e.g., offering them lengthy time periods to
bring a property into compliance), this approach was seldom taken when dealing with landlords whom officers deemed absentee. When asked how municipal law enforcement approaches bring properties owned by absentee owners into compliance with the City’s by-laws, one municipal law official reflected how:

Plain and simple we hit them in the pocketbook, because they are on the property tax roll as the owner, that is where we issue our fees for service and that is where we issue our contractor costs. In some cases when we pull up the deeds, or when we pull up corporate searches to find out who the directors of a certain building are... we track them down and then issue the PONs [Provincial Offence Notices] …We have had quite a few incidents where officers have driven outside of our municipality to issue PONs or a Part III summons to a property owner not living in our area… Once you start hitting their pocketbooks they start complying or they take it out on the tenants and it becomes a landlord tenant issue. Plain and simple they don’t want us bothering them… They don’t want the City by-law after them… Once they know that we are watching them some try to bring their property into compliance or they sell it… quickly.

While aggressive enforcement techniques were supported by other municipal law officials when discussing how best to respond to absentee property owners, a different official highlighted how even taking a landlord to court does not ensure they will change their mindset. Likewise, bringing a property into compliance with the City’s municipal laws does not guarantee it will stay that way. As the official explained:

We had a case recently where there were several elderly people… I guess you would call them challenged or disabled people living above a pizza place… you could call it a rooming house. It had no heat, no hydro, didn’t have any gas. Somebody tipped us off and it was true, we went up there and the place had no heat…it was awful. We later found out that the landlord would line them [the elderly tenants] up at 2 AM in order to collect the rent… They [the landlord] would line them up at the kitchen table and demand cash not cheques… So we did a lot of investigating in that case and brought the landlord and owner to court on many by-law infractions and they were charged… Can we change their behaviour? Are they probably doing it somewhere else? We don’t know that’s the frustrating part. One of the challenging things for us is that things in some of these properties change so quickly. You can have a house that is in compliance one day and in noncompliance the next. We do have mechanisms in place to protect certain populations; however, things change quickly.
Similar to views expressed by municipal law officials, frontline officers were quite willing to pursue more aggressive enforcement techniques in cases where they felt landlords were neglecting their property and in doing so endangering the safety of tenants. In this sense, the logic guiding the street-level enforcement of municipal laws regulating issues like property standards in rental houses were shared with municipal law officials. Importantly, this more punitive approach was not without consequence.

The Condemned

Parking the vehicle several doors down from the property in question, the officer explained how she would be doing an exterior and interior inspection as part of today’s investigation. As we walked towards the property along a busy downtown street, the officer discussed how the complainant had rented the modest two-bedroom apartment for some time now. However, over the last year-and-half the property had started to show serious signs of wear, including cracks along the foundation and what the complainant described as a “sinking floor” inside one of the rooms. According to the complainant, one of the three people who resided in the street-level apartment, the problems had been discussed on several occasions with the landlord who refused to make any necessary repairs.

Meeting us in front of the property, the officer introduced herself to the complainant, mentioning how it was nice to meet them in person after several lengthy phone calls. Anxious to show the officer the issues with the apartment, the complainant escorted the officer alongside the building, drawing our attention to several large cracks in the concrete wall. Bending down and carefully running her hand along the jagged concrete and heaved asphalt, the officer asked the complainant how long the crack had been there. While the complainant could not establish an
exact timeline, he was certain the crack was not there when he moved in. Continuing the
exterior tour, the complainant walked us around to the other side of the building and up a small
flight of stairs. Pointing to several bare spots on the building’s flat roof, the complainant
explained how water entered the apartment every time it rained. Drawing our attention to a tar
looking substance unevenly applied to the roof, the complainant discussed how the landlord had
used driveway sealer in a crude attempt to fix the leak. Circling back to the front of the house,
the complainant showed the officer several more problems including an improperly installed
rooftop drain spout that directed water back toward the building.

Instructing the officer and me not to worry about our shoes, the complainant led us through the
doorway into the living room. As the officer began to step forward, she immediately froze,
undoubtedly shocked by what she saw in the corner of the room. Taking several tentative steps
towards the corner, I watched as the officer retrieved her camera from her pocket and snap
several pictures of the floor that by her approximation had sunk almost two-and-a-half feet below
ground-level. Stating the obvious, the complainant pointed out how the interior sunken floor
shared the same wall with the exterior cracks. Curious, the officer asked how long the tenants
had lived with the sunken floor. After some careful deliberation, the complainant explained how
over the past year or so the floor had begun to give way, adding how he and others who lived in
the apartment “stayed away” from that part of the room. Taking several slow steps backwards,
the officer turned and instructed the complainant and me to stay away from that area of the room.

Reassuring the officer the floor was the “biggest problem,” the three of us moved towards the
apartment’s bathroom. Once again bending down into a squatting position the officer carefully
surveyed the door frame, noting how several pieces of tiling below the door frame had cracked
while others were beginning to heave. Returning to the standing position, the officer took
several steps back, noting how it appeared the doorframe had shifted as well. Several small cracks along the floor reinforced her hypothesis. Now standing inside the small bathroom outfitted with a 1970s style vanity and podium sink, the complainant drew back the shower curtain to show where the water entered the apartment when it rained. Peering up at the large water stains, the officer explained to the complainant how she would also be requesting the landlord replace the drop-ceiling with a more acceptable bathroom material.

After inspecting several other rooms, the three of us exited the house and returned to the spot we originally met outside the property. Explaining the next steps to the complainant, the officer outlined how she would be issuing a property standards Order which would be mailed to the landlord immediately. Once issued, the officer would also bring a duplicate copy to the tenants, just in case the property owner did not receive the order in the mail. Given the sunken floor, the noticeable cracks in the walls, the officer was also going to contact the City’s building department and request a structural engineer visit the property. Offering the complainant a chance to “correct her if she was wrong” the officer had also noticed there were no working smoke detectors present in the home. Interpreting the otherwise chatty complainant’s silence as an indication her observations were correct, the officer explained how someone from Hamilton Fire would also be visiting to install proper smoke alarms. Sensing the complainant/occupant of the home was worried about personally incurring a cost, the officer reassured him the installation fee would be charged to the landlord. Letting out a sigh of relief, the complainant noted how his disability cheque was only sufficient to cover his rent and groceries. Reassuring the complainant she was going to do “everything she could” the officer and I left the property.

Back inside the vehicle, the officer explained how contrary to some property standards orders, where property owners were given upwards of 30 days to address a deficiency, the imminent
threat to the safety of the rental’s occupants warranted a much shorter period. Drafting the order on her City-issued laptop as we sat parked just down the street from the property, the officer discussed how the multiple problems inside and out of apartment demonstrated “clear neglect” by the landlord. For this particular officer, this type of neglect justified the City “throwing the book” at the absentee landlord. Now driving back the municipal law offices, the officer hypothesized how the tenants may have to be temporarily removed in order to address the structural issues.

Several days later, the same officer and I returned to the property. The officer’s optimism was quickly squashed as the complainant explained how, despite several phone calls, he had not been able to get in touch with the landlord. As the complainant explained, there was some good news as someone from the fire department came the day after the officer inspected the property and installed smoke detectors. Furthermore, the building inspector was scheduled to come the following day.

During the following week, I sat chatting with a different officer inside the municipal law offices. Interrupting our conversation to provide an update, the officer investigating the house with the sunken floor informed me how the City’s structural engineer condemned the street-level apartment. Noting how she did not expect the property to be condemned, the officer explained how she had spoken with the tenants who were temporarily residing in a local hotel.

Several weeks later, the officer whose investigation led to the condemnation of the property discussed how her intentions were not to displace the tenants. Echoing what other officers had discussed, this officer explained how calls involving the “less fortunate” were never easy,
especially when upholding the law meant someone lost their home. Justifying her actions, the officer recalled how the landlord’s neglect had given her little choice.

* * *

While the investigation described above was the only case where a property was condemned during my time in the field I attended several other properties where tenants had been displaced because of a municipal law-related complaint. For example, on one occasion we attended a property in order to investigate a complaint called in by a tenant who was slated to be evicted from the basement apartment in the coming months. On route to the investigation, the responding officer explained how she had attended the property several months before for a similar complaint by the tenant. As a result of the original investigation, the officer discussed how she discovered the “very nicely renovated basement apartment” was violating the City’s zoning by-law. Although the property owner had considered applying for a minor variance to allow for a rental unit, he eventually decided it would be too costly. Having arrived at the property, the officer explained how the tenant, who suffered from some “mental health issues”, had been filing complaints quite regularly since finding out about the eviction. On a different occasion, an officer and I received a guided tour from an investor who had purchased a 3500 square-foot illegal rooming house, restoring it back to its single-family use. As the investor explained, the previous owner could not afford to renovate the house back to its original single-family layout after a zoning infraction was discovered by municipal law officers. Boasting how he was able to purchase the property “well below market value”, the investor discussed with the officer and me how several displaced tenants had broken back into the property during the early phases of construction. After our tour, the officer explained how it was not that uncommon for
some property owners to be unable to pay for these types of forced-renovations after zoning restrictions were enforced.

As this section has discussed, investigations involving illegal dwellings and absentee property owners were by far some of the most complicated cases officers dealt with during their daily routines responding to municipal law-related complaints. While some planning officials discussed the issues of absentee landlords and illegal dwellings in relation to the City’s broader economic agenda, others saw these issues having broader implications for the City of Hamilton especially when municipal law enforcement led to the loss of affordable housing units. For municipal law officials and frontline officers, addressing the issues of illegal dwellings and neglectful property owners often shared a close connection to ensuring the health and safety of Hamilton’s marginalized sectors of the populations. However, while punitive enforcement tactics where often deployed in the name of ensuring safety, the unintended consequences of these tactics at times led to the displacement of tenants. A more thorough discussion of this unintended consequence of enforcement will be discussed in this Chapter’s conclusions.

8.4: Compliance, Accommodation and Upholding the Law

As the investigations described in this Chapter demonstrate, officers were at times forced to make difficult enforcement decisions as they attempted to balance upholding municipal laws while minimizing the impact on those less fortunate. As this Chapter has also illustrated, the law itself was always relevant within these investigations as was the goal of establishing compliance. With this in mind, unlike the findings in some of the past research on municipal law (see Desmond and Valdez, 2012; O’Grady et al., 2013 and Sylvestre, 2010), Hamilton’s municipal law officers did not specifically seek to punish the urban poor (see Wacquant, 2009). At the
same time, in addition to the unintended consequences enforcement decisions did have in some cases, there were also limitations to officers’ more accommodating or soft approach to enforcement. In other words, while officers were willing to go to great lengths to work with those less fortunate, there were cases when even the most accommodating officers reached their limits.

**From Yard Sale to Garbage Sale**

Travelling through the downtown core in the late afternoon, the officer I was accompanying updated me on an ongoing investigation I had been involved with during the week before. Referring to the investigation as the “yard sale call” the officer explained how he had revisited the property the Monday after the weekend-compliance deadline discussed with the two tenants. Speaking in a disappointed tone, the officer described how upon arrival, a significant portion of the merchandise was still haphazardly scattered over top of the front lawn. Curious, I asked the officer how he responded to the ongoing non-compliance. Shaking his head, the officer noted how he had given both tenants another verbal warning and instructed them to clean up immediately. Perhaps temporarily forgetting my familiarity with the investigation, after a brief delay, the officer explained how the woman’s departure from the rooming house had been delayed as her “friend” had some kind of scheduling conflict. Making note of the cross street we had just passed, the officer decided that given our proximity to the property, it would not hurt to stop by, just to ensure the tenants had complied with the officers second request to clean up the property.

Coming to an abrupt stop in front of the property, the officer turned to me with a defeated look and said, “You got to be kidding me”. Grabbing his ticket book from the backseat, the officer
and I exited the vehicle and proceeded towards the property. Looking almost identical to the scene I witnessed exactly one-week prior, the only notable change was a rental moving truck parked with its hazard lights on beside the property. Following a familiar path through the front lawn, the officer pointed out how a majority of the goods had been ruined by rain that pounded the City over the weekend, including several large pieces of furniture and clothing presumably left behind by the woman the officer spoke with several days prior.

Seeing a familiar figure emerge from the side entrance, the officer paced across the lawn towards the man (the same individual who claimed he sprayed his children with bug spray before bed) we had spoken with seven days prior. After a considerably more heated exchange than previous encounters, the man told the officer how he was fed-up with the City bothering him and just wanted to get his stuff in the moving truck. Pressing the man, the officer asked if he had a reasonable explanation why he had not complied with the officer’s request to clean up the property. Ignoring the officer, the man continued to load the contents from inside his apartment into the rental truck. Gathering himself, the officer casually walked back to municipal law vehicle, pulled out his ticket book and issued the man a citation for depositing waste. Putting up little resistance, the man snatched the ticket from the officer’s hand and stuffed it in his back pocket.

Making our way back towards the municipal law offices, the officer explained how he had exhausted every possible option with the tenant. Discussing the investigation’s timeline, the officer recalled how he had given the man over a week to comply with his request to remove the goods from the lawn. Furthermore, based on the most recent interaction, it was clear the man did not intend to remove the items before his permanent departure. Given the significant
deterioration of the weather-damaged goods, the officer explained how the depositing waste ticket was appropriate.

* * *

As this narrative illustrates, even the most accommodating officers eventually reach their limits in cases of non-compliance. That being the case, this example is given not to take away from the general themes discussed in this Chapter. However, the interaction described above highlights how there are cases where blatant disregard for the City’s municipal laws as well as failure to comply with officer’s requests do influence enforcement decisions, even when these investigations involve Hamilton’s marginalized. Likewise, while in some cases officers’ attempts to uphold municipal laws resulted in more favourable outcomes for tenants as opposed to landlords, this was not a result of bias or purposeful discrimination. As experienced firsthand, officers’ primary concerns were establishing the minimum requirements to bring a property into compliance. As one officer explained “it’s not like we [municipal law officers] pick sides...if a property has an infraction the landlord has to make things right...when someone is paying to live somewhere there is an expectation the place is in respectable shape”. Not unlike the reasoning informing some of the investigations discussed in Chapter 7, Municipal law officials were also aware that some tenants use municipal laws as a method to get back at their landlords. As one official discussed:

In some cases…tenants use by-law as a tool against the owners. We don’t like it when they do that but they do, they use municipal law as a tool…so for example, if they are part of a landlord and tenant review, they will call us in the middle of it, our officers are then subpoenaed to court and they use the Orders as a method to prove that the landlord hasn’t fixed deficiencies.

With this in mind, there were times when enforcement decisions benefited the property owners as opposed to tenants. For example, on one occasion I accompanied an officer during an
investigation where a tenant suffering from a mental illness claimed his landlord had refused to make necessary repairs to his unit. Upon arrival to the house, we spoke with the landlord who informed us he had attempted to address the minor property standards issue on multiple occasions but were denied entry by the tenant. After inspecting the rental unit and verifying the landlord had all the necessary materials to fix the minor issue, the officer informed the tenant how he would not be issuing a property standards order. Furthermore, the officer explained to both parties how he would not return to the property if the tenant continued to refuse the landlord entry to the unit to make the minor repairs.

8.5 Conclusions: Displacement and Unintended Consequences of Enforcement

As established in Chapter 5, and briefly revisited at the beginning of this Chapter, since the early 1900s the City of Hamilton has played an important role providing social services to the region. As a result of this role, Hamilton has a higher than average number of marginalized residents who reside in a range of different types of housing including Residential Care Facilities, City owned housing and private market rental units. With this in mind, throughout the course of municipal law investigations officers interacted with Hamilton’s marginalized population frequently. In some cases, for example, the enforcement of Schedule 20 and the vital services by-law, the restrictions outlined within certain by-laws serves the function of protecting the health and safety of those living in RCFs and renting from neglectful property owners. As this Chapter has demonstrated, in some cases, specifically vital service investigations, attempts to ensure what was believed to be the health and safety of tenants were often problematic as some residents were reluctant to disclose information about their landlords. Similar to the residents discussed in the Nightmare on Cannon article described at the beginning of this Chapter, several officers involved in vital services investigations explained how some of
Hamilton’s marginalized feared being evicted if they disclosed information about their landlords (even in cases when the utilities were going to be shut off). While schedule 20 and the vital service by-law mandate certain health and safety related provisions with the laws themselves, in other cases, the choice to ensure the health and safety of the marginalized played out through street-level enforcement decisions by investigating officers. As the interactions described above demonstrate, officers exercised a great deal of caution when enforcing municipal laws they perceived as detrimental to Hamilton’s marginalized population. In this sense, while officers appeared to remain loyal to their role of upholding the laws, even when outcomes were less than favourable for members of Hamilton’s marginalized population, these decisions were never straightforward.

In the context of some of the broader themes discussed in this dissertation, this Chapter has demonstrated the sharp economic contrasts that exist within Hamilton, specifically within the downtown core. While pockets of Hamilton’s lower City are showing significant signs of renewal and economic upturn, a portion of Hamiltonians still reside in sub-standard and at times illegal housing situations. This of course is not to suggest all illegal apartments are substandard; however, as this Chapter demonstrates, cases of sub-standard dwellings are often made worse by neglectful landlords. This Chapter has highlighted how some efforts to ensure the health and safety of the marginalized, specifically those living in substandard housing, are not entirely unrelated to Hamilton’s broader economic and strategic planning goals. Although officers’ logic in these investigations was framed around concerns for perceived safety, their enforcement decisions often forced landlords to make considerable improvements to their properties. For example, the Compliance Order issued to the property with the chicken wire on the windows was issued with the tenant’s safety in mind. However, these types of improvements undoubtedly also
improve the physical appearance of the property itself. Likewise, although officers exhibited a willingness to work with property owners who may have lacked the financial means to take care of yard maintenance and property standards deficiencies, in the end these issues were addressed. Perhaps most importantly, this Chapter has demonstrated how the more punitive legal responses reserved for absentee property owners can have serious consequences for the marginalized who at times become displaced because of the enforcement decisions. Although the officer’s enforcement techniques are grounded in the logic of perceived safety, the results of their decisions can be detrimental for those living in illegal units or where physical conditions place their well-being at risk. In addition, not only do some enforcement decisions over issues of safety and zoning lead to the displacement of Hamilton’s marginalized, they also eliminate rental options in a City whose own policy documents highlight a significant shortage of suitable affordable housing. This of course is not to suggest frontline officers, municipal law officials or City planners engage in enforcement or policymaking that intentionally displaces the marginalized. Instead, this less than favourable outcome demonstrates what Valverde (2010, p. 5) calls the “undesirable side-effects of security measures that generate unintended consequences”.

This dissertation will now turn to a more thorough analysis of the major themes discussed throughout Chapters 5-8. The following Chapter will begin by providing a brief review the themes that emerged in this dissertation’s four results Chapters. Drawing on urban sociology and legal geography literature, the second part of Chapter 9 will discuss why an inconsistency exists between how municipal law enforcement is prioritized in City documents and private consultant’s reports and how such the enforcement of these laws plays out on the street level. In relation to the governing security literature and more generally Foucault’s governmentality
thesis, Chapter 9 will offer a critical commentary on some of the ideas proposed by Foucault and
his contemporaries. More specifically, this section will discuss how the problematic nature of
the governance process and contradictions of governing in the name of security provide a useful
framework when attempting to explain the inconsistencies between Hamilton’s strategic
planning documents and the street-level enforcement of municipal laws. The end of Chapter 9
will discuss the broader implications of this dissertation’s findings for the City of Hamilton.
Here I will discuss how the enforcement of some antiquated and subjectively worded municipal
laws are arguably counter-productive to the City’s broader economic goals. In addition, I argue
that while municipal law enforcement may not share a direct link to Hamilton’s broader strategic
economic planning goals, officers do play an important role ensuring the health and safety of the
marginalized. Chapter 9 will conclude by revisiting the debates surrounding proactive
enforcement and how this enforcement technique could be leveraged to further protect the
marginalized.
Chapter 9.0: Discussion – Enforcing Municipal Law in a Divided City

The primary goal of this Chapter is to provide an in depth discussion of this study’s findings and attempt to explain inconsistencies between how municipal law enforcement is prioritized within City documents, discussed by planners and some municipal law officials and how such enforcement plays out at a street-level. Chapter 9 is organized around a series of arguments relating to this study’s findings. First, as will be discussed below, while this study’s results are consistent with the major themes discussed throughout the urban sociology and legal geography literature, including past research on municipal law enforcement, this Chapter will put forth that this dissertation has offered a detailed ethnographic account of neighbourhood conflict not found within the existing literature. I will discuss the significance of this study’s findings in relation to the literature discussed in Chapters 2 and 3. Secondly, in an attempt to explain this study’s central thesis, this Chapter will draw on the Foucauldian/governing security literature, where it will be argued that the multiple logics informing Hamilton’s municipal law enforcement and spatial scale in which officer’s view their work helps explain the inconsistencies between how enforcement is discussed in City documents and what my time in the field revealed. In addition, it will be demonstrated how spatial and temporal aspects of scale also play a part in the less punitive enforcement techniques deployed by officers as they attempt to uphold the law and maintain civility throughout Hamilton. Offering a more thorough account of the organizational factors that contribute to why policies fail to be implemented as planned, this Chapter will also draw on the street-level bureaucracy literature in order to shed further light on the gap between street-level enforcement and Hamilton’s broader economic agenda prioritizing the proactive enforcement of municipal laws. Here, it will be argued that the complexity of frontline municipal law enforcement, organizational policies and the relationship between municipal law
officials and officers significantly influences the street-level decisions of those directly
responsible for upholding local laws. Providing a foundation for this discussion, this Chapter
will first review the results outlined in Chapters 5 through 8.

9.1 Results Revisited

As was discussed in Chapter 5, Hamilton’s longstanding role as an industrial
manufacturer has shaped the physical and social geography of the City. Similar to other rust-belt
cities in North America, deindustrialization has taken a considerable toll on Hamilton leading to
considerable job loss and contributing to the deterioration of several areas of the downtown that
once housed the City’s working class, particularly those who worked in the steel industry.
However, things are changing in Hamilton. Beginning around 2008, the City has experienced an
unprecedented economic upturn, the signs of which are evident in the advent of high-rise
condominiums and renewed investment interest in several downtown neighbourhoods.

As discussed in Chapter 5, Hamilton has devoted significant resources to rebrand itself as
a “world-class” City known for more than steel manufacturing. However, one of the more
monumental tasks the City of Hamilton is faced with is altering the perception that the City,
specifically the downtown, is unclean, unfriendly and perhaps more importantly, unsafe (see
Wakefield, 2007; Wakefield and McMullan, 2005). Chapter 5 discussed how Hamilton’s less
than favourable reputation has been identified as a detriment in several City sponsored
consultant’s reports (See Public & Private Security Management, 2007; The Planning Partners,
2014) and City planning documents (see Economic Development Strategy, 2010; Putting People
Influenced by recommendations outlined in a private consultants report, in 2008 Hamilton rolled-out a priority-based, “get-tough” approach to enforcing municipal laws that regulate property standards, yard maintenance, commercial licensing and noise in the downtown core in order to facilitate urban revitalization. The commitment to proactive enforcement was amplified in the spring of 2010 when the City launched an 18-month pilot project called “Project Compliance”. Although touted as a way to investigate safety concerns in the downtown rental housing market, proactive enforcement cannot be viewed as entirely removed from Hamilton’s broader economic redevelopment agenda. In fact, only half of the over 3,000 Orders to Comply issued throughout the 18-month proactive blitz were given to rental properties. In 2012, the City of Hamilton created a dedicated proactive unit in order to continue to address yard maintenance and property standards throughout several “high-priority areas” of the City. Proactive enforcement was discussed in more detail in Chapter 6.

The interview data presented in Chapter 6 demonstrated how a majority of City planners and some municipal law officials viewed proactive enforcement as playing a key role in improving the physical conditions of the downtown core. A portion of these same officials, particularly municipal law officials, also saw proactive enforcement as a technique to ensure safety and educate the public on the City’s municipal laws. For municipal law officials, this was specifically important when investigations involved Hamilton’s economically and/or socially marginalized.

Based on ethnographic observations, Chapter 6 highlighted the multiple factors influencing street-level enforcement decisions and discussed how proactive municipal law enforcement was used by the City of Hamilton to address issues of social disorder throughout the City. Similar to the enforcement of laws governing physical disorder, Chapter 6 demonstrated
how officers use a broad range of enforcement techniques when attempting to uphold laws regulating numerous industries including taxis and the bars/restaurants providing entertainment to the late-night crowd.

One of the central themes discussed in Chapter 6 was how Hamilton’s proactive municipal law enforcement is shaped by multiple logics.\textsuperscript{77} For example, while the proactive enforcement of some municipal laws (e.g., property standards and yard maintenance) shared a close relationship to the City’s broader economic goal of improving the aesthetic appeal and the perception of some downtown neighbourhoods, this was not always the case. For example, the proactive enforcement of sections of the licensing by-law regulating taxis where the primary goal of enforcement was to establish and maintain safety within the industry. The observational data discussed in Chapter 6 also highlights how, although the enforcement of some municipal laws, for example, the section of the licensing by-law regulating the taxi industry and laws regulating nuisance as well as illegal dumping were enforced with broken windows/zero tolerance mentality, officers commonly took a less aggressive approach when enforcing other municipal laws. In this sense, the techniques deployed by officers engaged in proactive enforcement at the street-level were less punitive in nature than the City’s proactive enforcement initiative discussed within City documents and revealed in interviews by some planners. Chapter 6 concluded by discussing how proactive enforcement was hindered slightly by internal bureaucratic politics including debates whether non-proactive officers should be actively seeking violations. Internal regulations over the authorization of overtime also influenced proactive enforcement of the nuisance by-law during the late-night hours of the weekends.

\textsuperscript{77} As discussed in Chapter 4, logic referrers to the rationale, reasoning and justification of projects that seek to govern security. According to Valverde (2014) techniques are the methods in which governing security is carried out.
The primary goal of Chapter 7 was to examine the role municipal law enforcement officers play in managing disputes between neighbours and amongst businesses. Although sharing a less direct link to the City’s broader economic agenda, Chapter 7 demonstrated how the street-level enforcement decisions made by officers are instrumental in maintaining what was considered to be neighbourhood civility. As Chapter 7 also highlights the rationale informing municipal law-related complaints in the City was diverse and shaped by changes to the social composition of neighbourhoods, local economic competition and conceptual ideas about what constitutes a clean, safe and peaceful urban environment. While municipal law itself was not irrelevant to the investigations discussed in Chapter 7, the subjective and somewhat archaic nature of some of Hamilton’s municipal laws forced officers to make difficult enforcement decisions as they attempted to uphold the law while mitigating neighbourhood conflict.

Drawing on ethnographic data and supplemented with content from interviews with municipal law officials, this Chapter also discussed the reasoning behind many of the complaints the City of Hamilton receives from local residents and businesses. With the exception of businesses, only a relatively small portion of the municipal law-related complaints Hamilton receives relate directly to the functioning of the local economy. In contrast to business-related investigations, neighbourly complaints often revolve around issues of what was is deemed to be acceptable and unacceptable behaviour. In this regard, a significant number of these complaints were influenced by changes to the social composition of neighbourhoods. The Unplugging the Neighbourhood DJ investigation would be a noteworthy example. Establishing the rationale guiding some complaints was far less obvious. For example, as described in Chapter 7, in the minds of by-law officials, some people complain simply because they can. Interviews with municipal law officials supported this observation reinforcing how some of the complaints the
City receives are retributive. In fact, municipal law officials discussed how some complainants used municipal laws as a method to “get back” at others in the neighbourhood.

While officers did not disregard the importance of upholding the law, Chapter 7 reviewed the strategic enforcement techniques deployed by officers to help mitigate the sometimes-tenuous neighbourhood relationships their investigations revealed. These enforcement techniques were most often influenced by micro-level and investigation-specific factors opposed to some of the more general economic and renewal-focused priorities set out in some City documents. In fact, Chapter 7 discussed how officers were very hesitant to pursue punitive measures (e.g., issuing a ticket) out of concern for escalating a dispute. Contrary to the order maintenance mentality to social disorder outlined out in some City documents and the Protecting the Future report, officers demonstrate a far less punitive mentality when enforcing municipal laws. At the same time, Chapter 7 also shed light on how, in some cases, an officer’s ability to resolve street-level disputes was impeded by the subjective nature of some of Hamilton’s municipal laws. Interestingly, the attempt to manage street-level disputes sometimes led officers outside of their legal jurisdiction. While in theory this renders municipal law inapplicable, Chapter 7 also demonstrated how local land-based laws can be used to address gaps in criminal law. The decisions by an officer to use the City’s sign by-law to confiscate a graphic abortion sign is a good example.

Chapter 8 discussed the role municipal law officers play in efforts to ensure what was believed to be the health and safety of Hamilton’s more marginalized populations. Some of Hamilton’s municipal laws, for example the section of the licensing by-law regulating Residential Care Facilities and the vital services by-law, have specific clauses meant to ensure the health and safety of those living in precarious conditions. Importantly, Chapter 8 highlighted
how even municipal laws put in place to protect residents from neglectful landlords presented enforcement challenges for front-line officers. For example, during some vital services investigations tenants were reluctant to disclose information about their landlords for fear of eviction.

The second part of Chapter 8 focused on interactions with Hamilton’s marginalized as a result of investigations relating to noise, property standards and zoning. Supplemented by data gathered with municipal law officials, Chapter 8 also discussed how officers’ assessment of financial need, health and safety at times influenced enforcement decisions when dealing with marginalized groups. Here it was demonstrated how efforts to ensure what was considered to be the health and safety of Hamilton’s marginalized sectors led officers outside the jurisdiction of municipal law.

The third part of Chapter 8 discussed investigations involving neglectful landlords and illegal dwellings. This part of Chapter 8 offered a firsthand account of the sharp economic contrasts that exist within Hamilton, specifically within the downtown core. Here it was demonstrated how the more accommodating enforcement techniques officers deployed while interacting with the socially excluded/marginalized were seldom used when dealing with absentee landlords. Chapter 8 also highlighted how the law itself remained an important element in investigations involving Hamilton’s marginalized.

Chapter 8 also examined how some of the efforts to maintain the health and safety of the marginalized, most often those residing in less than favourable housing situations, were not completely unrelated to Hamilton’s broader rejuvenation efforts. For example, while informed by the logic of ensuring safety, these investigations often resulted in the City forcing landlords to
make considerable improvements to their properties which, in turn, enhanced the physical aesthetics of the City. Importantly, this is not to suggest addressing property standards did not also improve the living conditions within these properties. Perhaps most importantly, Chapter 8 demonstrated how despite the fact officers’ enforcement decisions were informed by the logic of ensuring safety, the results of these decisions were at times detrimental to those living in illegal units or where physical conditions placed their well-being at risk.

Before elaborating on why street-level enforcement appeared to share a less direct relationship to how such enforcement was discussed in City documents and during interviews with planners and municipal law officials, it is worth reviewing this study’s findings within the context of past literature. With this in mind, the following section will discuss this dissertation’s findings within the context of several major themes identified in Chapters 3 and 4 including the impact that deindustrialization, gentrification and more generally neoliberal policymaking has had on cities like Hamilton. Past research on broken windows policing and the widespread use of non-criminal, provincial and municipal laws to regulate disorder also provides an important starting point for a more detailed discussion of how this study’s detailed ethnographic account of municipal law enforcement offers a unique account of urban governance not fully addressed in past studies. Likewise, this study’s results are also worth discussing in relation to the small but important body of literature exploring how municipal laws regulate the everyday lives of urban citizens.
9.2 Urban Renewal and Municipal Law

The Ambitious City: Neoliberalism, Globalization, Deindustrialization and Urban Change

Economic globalization and the proliferation of neoliberal ideals has increased competition on a national, regional and local scale (Peck and Tickell, 2002; Brenner and Theodore, 2002; Harvey, 2007). Critical scholarship highlights how the culmination of economic globalization and the spread of neoliberalism have destabilized once prosperous cities (Hall and Hubbard, 1996). Describing the scaling-back of the welfare state as the roll-back stage of neoliberalism, Peck and Tickell (2002) suggest that during the 1970s, governments across North America and the United Kingdom significantly reduced social welfare provisions. Although not entirely unrelated to neoliberalism, the 1970s were also significant as the growth of the service industry, the erosion of job security and the polarization of skilled and unskilled work dramatically impacted employment (Esser and Hirsch, 1989; Jessop, 1994; Leach, 1998). Combined with the enactment of NAFTA, free market neoliberalism and the move towards high tech manufacturing fueled widespread deindustrialization throughout North America leaving rust-belt cities like Michigan, Ohio and Wisconsin in considerable financial despair (see, High, 2003; High and Lewis, 2007; Lopez, 2004). Although the effects of deindustrialization have been well-documented, it has been argued that no other North American City has been impacted to the extent that Hamilton has (see Harris et al., 2015).

While this dissertation’s focus has been on municipal law enforcement, Hamilton’s longstanding connection to industrial manufacturing and subsequent deindustrialization should not be ignored. In fact, the challenges Hamilton is currently facing as it attempts to rejuvenate the downtown core are arguably a direct result of the City’s deindustrialization. For example,
the physical deterioration found within some commercial corridors, the staggering amount of poverty throughout the downtown and the City’s aging housing stock all share a connection to deindustrialization. Furthermore, a significant portion of the illegally converted street-level commercial spaces, many of which provide shelter for members of the City’s marginalized, are concentrated alongside the arterial streets that once shuttled thousands of workers to and from Hamilton’s two steel manufacturers. The reactive investigations described throughout Chapter 7 also share a close link to the decline in the City’s steel manufacturing and more recent gentrification. Similar to the *New Neighbours, Old Noise* and *Silencing the Neighbourhood DJ* investigations, the changing social composition within neighbourhoods, particularly in the downtown, was a key factor in numerous complaint-based investigations. Although it would be incorrect to assume that all the complaints described in Chapter 7 were a direct result of the City’s gentrification, changes to the socio-economic profile of the downtown should not be overlooked.

While this study’s findings are consistent with broader trends identified in past research on deindustrialization and gentrification, the ethnographic accounts offered throughout this study also reinforce the detrimental effects roll-back neoliberalism has had on cities like Hamilton. These effects are most evident in Hamilton’s long wait list for Rent-Geared-to-Income housing and the large number of marginalized people who reside within the inner City, a portion of which rely on the dozens of Residential Care Facilities in the downtown. Although shifts in employment and deindustrialization should be not considered as separate from the roll-back stage of neoliberalism, changes to housing policies at a Federal and Provincial level downloaded the responsibility for affordable housing to municipal governments (see, Hulchanski, 2004; Hackworth and Moriah, 2006). As described in Chapter 5, since the 1920s Hamilton has

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struggled to provide adequate housing for what was then the City’s industrial work force. In this regard, over the last century Hamilton has always had a shortage of suitable housing. However, there is little debating the current housing crisis in Hamilton, including the amount of substandard and illegal dwellings, has only been made worse by the lack of housing support from the Federal and Provincial governments.

In addition to impacting the housing situation in Hamilton, the scaling back of welfare provisions which began in the 1970s also led to mass deinstitutionalization throughout many parts of Canada. As discussed in Chapter 5, between 1974 and 1980 the number of lodging homes licensed by the City of Hamilton went from 33 to 91, a number which does not take into account the dozens of unlicensed homes that operated during this time (Dear and Wolch, 2014). Although only a portion of my time in the field was spent with the officers responsible for upholding the City’s licensing by-law that regulates Resident Care Facilities (and other citywide by-laws regulating, for example, property standards), these observations have documented the challenges associated with maintaining compliance within these privately operated facilities. Importantly, this study’s findings also support past research that has documented and critiqued the roll-out stage of neoliberalism and the punitive urban policies that have become normalized throughout North America. Likewise, Hamilton’s emphasis on attracting knowledge-based, creative industries and the site-specific marketing of certain commercial and natural amenities is also consistent with past literature on planning.

While economic competition between neighbouring cities is by no means a new phenomenon, in more recent years, neoliberal principles and terms of reference are becoming normalized, infiltrating social policy throughout all levels of government (Wilson, 2004). Consistent with past literature, this study’s findings demonstrate how neoliberal thinking is
informing Hamilton’s economic rejuvenation planning. For example, as discussed in City documents and during interviews with planners, in order to ensure economic competitiveness and vitality, Hamilton has spent considerable time and effort attempting to attract what are considered to be knowledge-based/creative industries. This has included amending the City’s zoning by-law to allow for industrial spaces to be used for “creative” and “artistic” purposes. In stark contrast to the labour intensive manufacturing jobs that historically provided stability to the City’s local economy, Hamilton’s planning documents are quite forthcoming about the importance of attracting the highly mobile members of the so called *creative class*. Consistent with the literature discussed in Chapter 3, this study has highlighted how Hamilton’s planning efforts are focused on what Harvey (1989, p. 7) calls the “the political economy of place rather than of territory” (Harvey, 1989, p. 7). Put differently, Hamilton, much like other North American cities, has focused redevelopment efforts on particular areas of the City opposed to the City as a whole. For example, Hamilton’s focus on marketing waterfront development is consistent with approaches adopted in Vancouver (Ley, 2012) and Toronto (De Sousa, 2002). Similar to approaches taken in many other North American cities, Hamilton’s goal of creating a unique, culturally authentic, aesthetically pleasing and pedestrian friendly downtown is outlined in several macro and micro-level City plans.

As MacLeod (2002) suggests, the place marketing of specific areas of a city, for example the blocks surrounding Hamilton’s new condominiums, are purpose built to encourage “acceptable” patterns of behaviour while punishing those who do not fit within the surrounding aesthetics. Blomley (2004) supports this suggestion, putting forth that as cities gentrify, the attractiveness of neighbourhoods becomes more dependent on moral appeal, which in turn heightens the intolerance for disorder. Dovetailing the roll-out stage of neoliberalism and
policymakers’ intolerance for any type of behaviour that fits into crime or the broadly defined category of “disorder”, entrepreneurial strategies and site-specific redevelopment planning has pushed the issue of safety into the public policy making arena. Particularly relevant to the current study, whether real or imaginary, concerns about safety, crime and disorder have proven to be serious obstacles in the implementation of urban redevelopment strategies (Helms, 2012). Considering the trends within the literature, it is not surprising that the importance of improving perceptions of safety and addressing physical disorder within the downtown emerged as a common theme within City documents as well as during interviews with City planners. Like past research, concerns for improving perceptions of safety in Hamilton’s downtown core have been met with strategic policing initiatives aimed at regulating social and physical disorder.

**Broken Windows Policing and Governing through the Law**

While the physical and social landscape of Hamilton has been shaped by what Peck and Tickell (2002) call the roll-back stage of neoliberalism, the decline in social service provisions has been accompanied by a more aggressive roll-out stage characterized by punitive social policies aimed at socializing individual citizens with the values of neoliberalism while simultaneously disciplining the non-compliant. As part of this process, the use of broken windows policing strategies has become one of the defining features of urban policymaking in the last several decades (Ranasinghe, 2012). While the use of broken windows policing strategies have been well documented by critical urban scholars, a smaller body of literature, more narrowly focused on the use of municipal laws has also shed light on how local laws regulate the everyday lives of urban citizens. As discussed below, this study’s findings are consistent with both bodies of literature.
Since the publication of Kelling and Wilson’s (1982) broken windows thesis, a substantial body of literature has critiqued how order maintenance styles of policing have been deployed throughout North America to address social and physical disorder (see, Harcourt, 2001; Wacquant, 2009). Although proactive enforcement represented a smaller portion of day-to-day municipal law related work, the way municipal law enforcement is prioritized in City documents, and how such enforcement was discussed by some planning officials is consistent with past research that has highlighted the growing reliance on order maintenance policing to regulate urban disorder. As described in Chapter 6, while officers often used less punitive techniques when carrying out proactive enforcement, this study has demonstrated how broken windows policing approaches to addressing disorder have become integrated into the enforcement of municipal law regulating issues like property standards.

Amongst broken windows literature, it has also been noted how local governments have begun to rely on flexible legal tools to regulate disorderly behaviour (see, Beckett and Herbert, 2009). Described as counter-laws, the growing reliance on more durable, non-criminal legal sanctions has been linked to the fact that constitutional rights and the legal protections associated with higher-level legislation are often disregarded when laws regulating certain geographical spaces are used to address disorder (see Garnett, 2004; Levi, 2009; Valverde, 2012). Valverde (2005; 2012) has also added that municipal government’s inability to pass legislation in order to addresses specific localized problems has led to more widespread deployment of land-use laws. Although during my time in the field Hamilton did not enact any new legislation related to the City’s broader economic objectives, Hamilton’s proactive approach to municipal law enforcement targeting property standards, yard maintenance, zoning and nuisance is largely a response to localized issues that are assumed to be a hindrance to the City’s economic growth.
This study’s findings support the proposition that there are times when local governments deploy land-use laws to regulate issues in ways that avoid constitutional protections. For example, although representing only a small fraction of the enforcement, this study has demonstrated how municipal laws can be used in response to localized issues most often addressed by the police. While it would be incorrect to assume that the police did not attempt to address the issue by way of their legal powers, the investigation described in Chapter 7 where an officer confiscated an abortion banner under the City’s sign by-law is a noteworthy example. Hamilton’s Multi-Agency Task Force which proactively seeks violations within the City’s nighttime entertainment industry is another noteworthy example of how local governments attempt to regulate non-compliance through multiple legal jurisdictions. This trend is consistent with American research demonstrating how large cities like Tampa, Houston and Atlanta are now incorporating building inspectors into police “sweeps” of struggling neighbourhoods (Garnett, 2010).

Considering the high concentration of poverty found within certain areas of Hamilton, this study’s findings need to be discussed in the context of past research critiquing the role laws play in regulating whom this study has described as “the marginalized”. As discussed throughout Chapter 8, the officers who participated in this study often went out of their way to ensure their enforcement decisions did not punish those living in economically disadvantaged positions. At least to a certain extent, the enforcement described throughout this study was carried out in a different manner from past research highlighting how the police use the law to regulate the poor (see, Wacquant, 2009; Sylvestre, 2010; O’Grady et al., 2013). However, there were times when officer’s enforcement decisions led to displacement. The *Condemned* investigation involving the downtown property with serious foundational issues serves as the best example. Although an unintended consequence, this study’s findings are not entirely
unrelated to past critical studies that have demonstrated how the enforcement of provincial and municipal laws can have detrimental effects on those living on the margins.

While past urban regulation research has demonstrated how non-criminal, provincial and municipal laws are being deployed throughout North America to regulate disorderly behaviour, recent scholarship has also sought to explore how local laws govern the everyday lives of urban citizens. Within this body of literature, scholars have suggested that “policing” is no longer an exclusive governmental domain and instead carried out by private security forces, non-state institutions and on a volunteer basis (see, Shearing and Stenning, 1987; Bayley and Shearing, 1996; Shearing and Johnston, 2008). In this regard, similar to the work of Proudfoot and McCann (2008) and Valverde (2012) this study’s findings shed empirical light on the role municipal law enforcement officers play within a broader network of governing agencies.

This study’s findings are consistent with several of the findings identified by Proudfoot and McCann (2008) and Valverde (2005; 2012). For example, the investigations described throughout this study support Valverde’s (2005) suggestion that municipal laws play a powerful role in regulating urban spaces and the everyday lives of those who call the city home. As the investigations described throughout this study demonstrate, zoning, licensing, property standards and even nuisance by-laws regulate the everyday lives of urban citizens in ways few urban scholars have examined empirically. Similar to Valverde (2012), this study has highlighted how the enforcement of municipal laws are shaped by divergent local politics and the street-level decisions of individual officers. The politics of cultural diversity which shape municipal law enforcement in Toronto differ from Hamilton where enforcement is more broadly informed by efforts to rejuvenate the City’s core. However, like Valverde (2012), this study has demonstrated how there is a street-level dynamic to municipal conflicts that exists outside of the
debates that play out in council chambers. At the same time, although Hamilton and Toronto (the location of Valverde’s study) both have unique socio-economic and cultural qualities, this study’s findings in Hamilton are consistent with Valverde’s (2012) suggestion that many municipal law related-conflicts are based on perceptual ideas of what constitutes a peaceful neighbourhood, a tidy property or a tolerable level of neighbourhood noise.

This study also shares common findings with Proudfoot and McCann’s (2008) study of municipal law officials in the City of Vancouver. For example, more so than Valverde, Proudfoot and McCann’s (2008) study attempted to explain how municipal law enforcement is shaped by the local politics of urban change. While Valverde’s (2012) research highlights how tolerable and intolerable levels of nuisance are influenced by socio-economic and cultural taste, for example condo owners complaining about noise coming from the street-level nightclubs located within the entertainment district, Proudfoot and McCann’s (2008) study focused specifically on how enforcement was influenced by the gentrification of Vancouver’s downtown. Considered alongside Proudfoot and McCann (2008) and Valverde (2012) this study’s findings support the observation that street-level enforcement decisions are shaped by micro-level factors and that, while bureaucratic objectives are important, it is investigation-specific details that influence a significant portion of street-level discretion. This was true in both the proactive investigations described in Chapter 6 and the reactive investigations reviewed in Chapters 7 and 8. Similar to Proudfoot and McCann’s (2008) findings, this study has demonstrated how officers’ perceptual ideas about what constitutes minimum standards do vary from neighbourhood to neighbourhood. In fact, street-level decisions were often times influenced by officers’ geographical imaginations (to borrow Proudfoot and McCann’s term). This was particularly true when officers addressed property standards issues through proactive and
reactive enforcement. While officers were concerned with upholding the law, what constituted minimum standards did vary depending on the physical conditions of the neighbourhood.

Taking into account what has been discussed above, this Chapter will provide an overview of this study’s more unique findings which have not been revealed in past research. As will be discussed below, while this study’s findings are consistent with past literature, the ethnographic accounts described throughout this dissertation have offered a novel and more in-depth view of the micro-level dynamics that are involved in the regulation of urban conflict.

*A View from the Streets: Upholding the Law and Maintaining Civility*

As Proudfoot and McCann (2008) suggest, in order to truly understand how urban change is managed by municipal law officers, scholars need to focus not only on formal written policies, but also on the street-level practices of those working on the frontlines. As discussed in the opening pages of this dissertation and reinforced by the ethnographic accounts offered in Chapters 6 through 8, the over 600 hours of time spent in the field has allowed for a detailed examination of street-level municipal law enforcement not offered elsewhere in the literature.

For example, a significant portion of past critical scholarship on the regulation of “disorderly” behaviour has been carried out through macro-level/structural critiques of neoliberalism (see, Wacquant, 2009), revanchism (see, Smith 2001) and the politics of social exclusion (Beckett and Herbert, 2009). Similarly, while research on how land-use laws are deployed by local governments to control gangs (see, Levi, 2009), illegal street-racing (see, Worrall and Tibbetts, 2006) and the location of adult entertainment establishments (see, Hubbard and Colosi, 2012) contribute to a better understanding of how urban spaces are regulated, these studies have been carried out by analyzing statistical data and informed by interviews. Similar methods have been deployed to demonstrate how local laws are used to socially exclude the homeless from public
spaces (see, O’Grady et al., 2013; Sylvestre, 2010) and to show how landlords discourage women of colour from calling the police in order to avoid nuisance citations (Desmond and Valdez, 2013).78 Past studies on the role municipal laws play governing the everyday lives of urban citizens have also deployed similar research methods. As discussed previously, Proudfoot and McCann’s (2008) request to accompany municipal law officers in Vancouver was denied by City officials. As a result of these bureaucratic barriers set forth by Vancouver City officials, Proudfoot and McCann’s study was informed by interviews. This is not to suggest ethnographic accounts of the municipal law enforcement do not exist.

As discussed above, several of this study’s key finding are consistent with Valverde’s detailed qualitative account of municipal law enforcement in the City of Toronto. At the same time, the geographical location of this study and the challenges facing Hamilton’s local government as they attempt to recover from several decades of economic uncertainty is an important differentiator between this project and Valverde’s. In fact, as this study has discussed, deindustrialization has not only shaped the physical geography of the City, it has also fractured sectors of the local economy contributing to high-rates of unemployment and poverty (see High, 2003 or Harris et al., 2015). Unlike Toronto, some of Hamilton’s planning documents are quite forthcoming about the importance of rebranding the City’s image and improving the physical aesthetic of the downtown. In this regard, the political rationales and priorities shaping municipal planning and municipal law enforcement undoubtedly differ from Toronto. To borrow Valverde’s (2011b) terminology, Hamilton’s municipal government inevitably “sees” and responds to local municipal issues much differently. After all by “seeing like a city” opposed to “seeing like the state” municipal governments identify and respond to their own

78 Sylvestre (2010) supplemented her detailed quantitative analysis with observations.
unique localized problems (Valverde, 2011b). In this sense, notwithstanding bureaucratic differences, how the City of Hamilton inevitably “sees” and responds to local problems differentiates this study from Valverde’s (2012).

While Valverde’s (2012) research offers a broader empirical overview of numerous bureaucratic forums where municipal law related issues are disputed (e.g., licensing tribunals, Ontario Municipal Board hearings and neighborhood associations), her study offers a less detailed account of how municipal law related conflicts play out at street-level. With this in mind, few qualitative accounts of the enforcement of local law have offered the level of detail discussed throughout this study. In fact, it could be argued this study’s findings shed empirical light on a micro-level dynamic of urban conflict and governance not addressed in past literature. The significance of this study’s detailed street-level account of municipal law related conflicts are worth elaborating.

While Chapter 7 provided the most thorough overview of how officers attempt to manage municipal law related disputes, the proactive investigations discussed in Chapter 6 are also significant given the relatively small amount of existing literature on municipal law enforcement. In fact, few studies have offered ethnographic accounts of how proactive enforcement carried out by municipal law officers is leveraged in order to regulate physical disorder, nuisances, (e.g., public urination) as well as govern the bar/restaurant and taxi industries. The detailed accounts of how officers attempt to uphold property standards laws, deescalate alcohol fueled disputes with intoxicated partygoers who have been issued public urination tickets and proactively enforce zoning and licensing by-laws offer a unique view of urban regulation not thoroughly discussed within past literature. At the same time, although concerns over patio noise and public urination in Hamilton’s entertainment district are undoubtedly linked to broader concerns
surrounding perceptions of safety, the micro-level interactions described in Chapter 6 demonstrate the complexity of enforcing municipal laws, even when these laws are prioritized through a “zero-tolerance” approach. Taking into account past literature, these tension-filled interactions, usually taking place in the late night hours of the weekend, have not been explored in existing studies. The same could be said for licensing by-laws, where street-level accounts of proactive taxi enforcement and efforts to maintain standards within Residential Care Facilities have been largely neglected.

As discussed in over a century of scholarship, disorder within the city is an inevitable feature of urban life (see Park, 1916, Simmel, 1943 Jacobs, 1961; Sennett 1970). As Harvey (2003, p. 939) argues, historically speaking, calmness and civility within cities has been the exception not the norm. Geographers attribute this conflict in part to the fact that living in the city forces people into physical proximity (Crow et al., 2012). In turn, spatial proximity produces unavoidable intrusions (Merry, 1987).

As described throughout this study a significant portion of the work Hamilton’s municipal law officers engage in on a daily basis involves resolving street-level conflicts over a broad range of municipal law related issues. Considered alongside past research on municipal law enforcement, this study has offered a unique account of how municipal law related disputes unfold and are managed by officers. In fact, although consistent with the findings of Purcell (2002) and Valverde (2012) who suggest there is a more imaginary element of space that often shapes neighbourhood activism and participation throughout municipal forums, this study demonstrates how perceptual notions of space inform local conflict on a more micro-level. Whether looking at daytime or nighttime concerns over noise, complaints about signs in the downtown core or illegal dwellings, this study has documented how local residents’ subjective
ideas about neighbourhood standards, peace and tranquility shape a significant portion of municipal law related work. At the same time, in part because of the broad regulatory power of municipal law and the amount of time I spent in the field, this study has demonstrated the nuanced relationship between perceptual aspects of space, urban law and the impact minor changes within neighbourhoods have on neighbourhood civility. In the context of Hamilton’s changing socio-economic composition, this study has offered a unique micro-level view of how gentrification and more generally changes to the social composition of neighbourhoods produce conflict.

While investigations pertaining to day and nighttime noise, illegal dwellings and disputes between businesses undoubtedly shed important empirical light on how the law intersects with more perceptual ideas about what constitutes acceptable behaviour within a neighbourhood or within certain industries, the narratives discussed throughout this study suggest there is an even more complex layer to municipal law related complaints. For example, there are times when officers respond to longstanding disputes between neighbours and amongst businesses where municipal laws are used in ways that are entirely retributive. For example, the complaint that forced the contractor to remove the stone fence pillars because they encroached on the City’s road allowance by a matter of inches, was arguably entirely retributive and had little to do with the aesthetic appeal of the neighbourhood. As described in Chapter 7, a majority of the fences on neighbouring properties, although not as elaborate as the stone pillar fence in question, were also encroaching on the City’s road allowance. Similar conclusions could be drawn from the *Living in a Concrete Jungle* investigation. Although these investigations often had less to do with the law and more to do with unpleasant relationships between neighbours, the officers who took part in this study often went to great lengths to restore calm between disputing parties, often
relying on enforcement techniques less structured by formal sanctions like Compliance Orders and fines. In this regard, this study has offered a detailed account of not only the factors that structure disputes between neighbours and amongst businesses, but also how such micro-level urban conflicts are managed by municipal law enforcement officers.

As noted above, the logic of resolving local conflicts also meant officers worked outside of their legal jurisdiction when investigating noise complaints in high-rise apartments and on federal land as well as when responding to disputes between tenants and landlords. While the observation that governmental authorities often cross their jurisdictional boundaries while attempting to resolve conflicts may not be a novel idea within the governing security literature (see Valverde, 2011a), few studies have offered an ethnographic account of this aspect of urban governance. Likewise, although consistent with past literature that has highlighted how local laws and municipal officers/inspectors play a more significant role in local government’s regulatory efforts (see Garnett, 2004), this study has offered a unique view of how municipal law enforcement and other governmental agencies work in tandem in order to address localized issues. Empirically, these observations are significant as they contribute to a better understanding of how municipal laws have become more commonly used alongside other provincial and federal laws when addressing issues or disorder and safety.

Given the significant body of literature that has critiqued how zero-tolerance policing models and urban laws are used to regulate “disorderly” populations, the investigations described in Chapter 8 have also offered a rather unique empirical perspective on how municipal laws govern those living in precarious conditions. While past Canadian research has highlighted how municipal laws are being used in cities like Toronto and Montreal to socially exclude and punish the homeless, this study’s findings suggest this is not the case with by-law enforcement in
Hamilton. Despite some unintended consequences, for example tenants being displaced, this study’s findings suggest that Hamilton’s municipal law enforcement officers made conscious efforts to ensure their enforcement decisions did not harm those with precarious housing. It is worth noting that the municipal laws discussed in this study govern the marginalized in slightly different geographical contexts than past research highlighting how local laws are used to control and punish the disorderly. For example, the municipal laws discussed in this study most often regulate issues pertaining to property standards, zoning and housing. Likewise, interactions with poor people took place within private dwellings opposed to public places. This is significant as the location of the investigations described in Chapter 8 are also important when considering why the officers who were observed in this study deployed less punitive techniques when interacting with the marginalized compared to research that has focused on police who ticket the poor in public spaces for violating laws like the Ontario Safe Streets Act. Most research which has critiqued how municipal laws are used to regulate disorderly behaviour has focused almost exclusively on public spaces such as parks and public sidewalks (see for example, O’Grady et al., 2013 and Sylvestre, 2010). To draw on the work of Erving Goffman (1959), in a dramaturgical sense, those who have critiqued the punitive and regulatory control municipal laws can have on certain marginalized sectors of the population have focused on the action of the police who most often interact with the vulnerable in public “front stage” situations where they are seen not as hapless victims, but as public nuisances if not criminals. Conversely, as this study has demonstrated, Hamilton’s municipal law enforcement officers, by way of the laws they enforce, were regularly exposed to more intimate, personal and private “back stage” situations where the people they were interacting with were perceived to be victims of unscrupulous, greedy, absentee landlords. In fact, most interactions with the marginalized took place within
spaces they (the marginalized) considered home - even though many were on the verge of being homeless. Taking into account past literature, this study has offered a unique empirical view of how the law regulates the marginalized in the private spaces they call home.

Although offering a more micro-level exploration of municipal conflict, this study’s findings support past literature highlighting how the roll-back/roll-out stages of neoliberalism, deindustrialization and gentrification are shaping urban policymaking throughout North America cities. This dissertation’s findings also support past literature which has demonstrated how non-criminal, ordinances and municipal laws continue to play an influential role in governing urban spaces. At the same time, this study’s detailed ethnographic account of municipal law enforcement in the City of Hamilton has offered a unique empirical exploration of how local conflicts play out and are managed by municipal law officials and how compassionate some aspects of by-law enforcement can be. However, several questions remain unanswered. To begin, given the way municipal law enforcement is prioritized in City documents, why did enforcement appear to have less to do with improving the physical appeal and reputation of the City, and more to do with managing what appeared to be civility issues between neighbours or trying to regulate the spaces occupied by low income people which were owned by neglectful landlords. Secondly, considering the considerable amount of literature on zero-tolerance and “get tough” policing approaches being used throughout cities across North America, why did Hamilton’s municipal law officers rely so often on less punitive enforcement measures? It is possible that Hamilton’s by-law enforcement is representative of the by-law enforcement in other North American cities, but this remains an empirical question beyond the scope of this dissertation.
In order to address these and related issues at a more abstract level, this Chapter will now draw on the Foucauldian/governing security literature to argue that the multiple logics informing Hamilton’s municipal law enforcement and the spatial scale in which officers view their work helps explain, to some extent, the inconsistencies between how enforcement is discussed in City documents and how such enforcement plays out at a street-level. Likewise, less punitive enforcement techniques deployed by officers are also influenced by temporal aspects of scale. Addressing some of the limitations of the Foucauldian/governing security approach, the following section will draw on the street-level bureaucracy literature to shed further light on the inconsistencies between how enforcement is prioritized in City documents and what ethnographic observations revealed. Here, the complexity of frontline municipal law enforcement, organizational policies and the relationship between municipal law officials and officers significantly influence the street-level decisions of those directly responsible for upholding local laws.

9.3 Hamilton’s Dysfunctional Dance: Urban Renewal and Municipal Law Enforcement

Governmentality and Governing Security

As discussed in earlier chapters, governance is a complex undertaking. As Foucault (1991) and his contemporaries (see for example, Rose and Miller, 1992; Hunt and Wickham, 1994; Garland, 1997) suggest, since the middle of the 18th century, problems facing governments have included a broad range of social ills including urban unrest, poverty, health and the maintenance of the economy. Although not providing a complete explanation as to why street-level municipal law enforcement appeared to share a less direct link to Hamilton’s broader planning goals as outlined within City documents, Foucault’s (1991) observation that the act of
governing is made problematic by multiple social ills is quite relevant in relation to this study’s findings.

As this study has demonstrated, the challenges facing the City of Hamilton are myriad. For example, one of the problems plaguing Hamilton’s municipal government relates to perception; more specifically how the City can improve the aesthetic appeal of the downtown in order to ensure private investors and consumers feel safe and will continue to build condominiums, open restaurants and shop in the lower City. While municipal law enforcement officers do proactively enforce property standards and yard maintenance by-laws in an effort to improve the downtown’s physical aesthetics, a significant portion of daily frontline work carried out by officers is in response to other problems related to governance. For example, proactive taxi enforcement blitzes were almost entirely in response to lingering concerns regarding unlicensed drivers, unsafe vehicles and what was believed to be general non-compliance within the industry. Likewise, investigations involving Hamilton’s marginalized commonly related to other citywide problems, including substandard housing and the disproportionate number of downtown residents living in poverty. The age of Hamilton’s downtown housing stock combined with the significant number of properties in need of repair should not be overlooked in relation to the problems facing the City both in terms of suitable rental housing and the maintenance of minimum property standards. As Chapter 7 discussed, the problems associated with upholding municipal laws are sometimes less directly linked to local economics and instead have more to do with maintaining what was perceived to be civility within neighbourhoods. In fact, a majority of municipal law-related work is in response to problems of civility and neighbourhood conflict.
Thus, while the enforcement of some municipal laws addresses problems directly associated with the local economy (e.g., improving aesthetic appeal), a larger portion of work is in response to other problems. Although addressing neighbourhood civility should not be viewed as entirely separate from problems related to the local economy, the inconsistencies between how the enforcement of some laws are prioritized in City documents and discussed during interviews and what ethnographic observations revealed can be explained by the fact municipal laws regulate a broad range of issues, many of which are not necessarily directly linked to economic development. In relation to the governmentality literature, Hamilton’s municipal laws seek to rectify (to borrow Rose and Miller’s term) a breadth of social ills some of which share a less direct relationship to the problems associated with the City’s reputation and physical appeal. For governing security scholars, separating the logic, the techniques and scope of municipal law enforcement in the City of Hamilton sheds further light on why street-level enforcement appeared to share a less direct relationship to how such enforcement was outlined in City documents and discussed by planners and municipal law officials.

As discussed earlier, the term “security” has become synonymous with numerous governance projects ranging from human and food security to home and cyber security (Johnston and Shearing, 2003; Valverde, 2011). Furthermore, Ranasinghe (2013) suggests that within many contemporary regulatory projects, “security” and “safety” have become conflated concepts. At the same time, the process of governing security - like Foucault’s theoretical work on modern forms of governance - is problematic by nature. In fact Valverde (2011a, p., 4-5) suggests that governing security is “inherently unstable and contradictory” as security projects are often carried out with conflicting objectives and divergent temporal and spatial scales.
While Valverde’s (2011a; 2014) methodological recommendations are helpful when studying the dynamic process of governing security, deciphering and analytically evaluating the logic, techniques and scope of security projects also sheds light on why some higher level objects (political-rationales or programs) do not play out as planned at the ground level (techniques). As a starting point, governing security scholars suggest that there can be different logics informing specific security projects whereby various stakeholders interpret those logics differently (see Valverde, 2011a). In other words, for Ranasinghe (2013, p. 91) “what security looks and feels like to one person is quite different from what it is to others…to put this a different way, that security can mean many different things”.

The Multiple Logics of Municipal Law Enforcement

As discussed throughout this dissertation, the enforcement of municipal law in the City of Hamilton is informed by multiple logics. These logics varied across the different actors involved in the governing process. While this is not a novel idea within the governing security literature (see, Valverde, 2011; Ranasinghe, 2013), the multiple logics shared by different actors which inform how enforcement is prioritized and how such enforcement plays out on a street-level is significant in relation to this study’s central argument. For example, as discussed in Chapter 6, a majority of planners viewed municipal law enforcement, specifically proactive enforcement, as playing a pivotal role in improving the physical appeal of the downtown and in turn addressing lingering concerns surrounding safety. While most planners discussed proactive enforcement in a manner quite similar to City documents, a small group of planners viewed proactive enforcement as an important tool in helping to identify and address the condition of some sub-standard properties within Hamilton’s rental market. This is significant as it suggests that even planning officials, some of whom are responsible for drafting policies for council approval, were
not a unified group when discussing how proactive enforcement should be leveraged within the City. As this would suggest, while some planners believed the primary logic informing proactive enforcement was to improve the aesthetic appeal of the downtown, others saw the logic of safety as being equally important.

More so than planners, interviews with municipal law officials reinforced the multiple logics informing the street-level enforcement of municipal laws. Given their managerial/supervisorial roles and influence on how some laws are prioritized and enforced, the fact this group of officials discussed municipal law enforcement in relation to different logics helps explain why my time in the field revealed that frontline enforcement had less to do with improving the aesthetic appeal of the downtown. For example, while municipal law officials were certainly aware of how laws regulating physical and social disorder could be leveraged to address downtown aesthetics and improve perceptions of safety, this same group spoke about the importance of proactively enforcing laws to ensure safety and educate residents on the law itself. In fact, municipal law officials acknowledged how the logic of a significant portion of municipal law-related work was to simply mediate tensions within neighbourhoods. Presumably reflecting on their time spent in the field, municipal law officials discussed how frontline officers best respond to investigations involving the marginalized where officers were encouraged to use less punitive or “soft” enforcement techniques. This is not to suggest that municipal law officials did not see value in more punitive or “get-tough” enforcement techniques. However, punitive enforcement techniques were seen by municipal law officials as more appropriately deployed in response to investigation-specific circumstances opposed to an overarching approach informing the enforcement of all municipal laws.


**Street-Level Logic and Enforcement Techniques**

In part because of the broader range of issues Hamilton’s municipal laws regulate, my time in the field reinforced the fact that street-level municipal law enforcement was informed by multiple logics. For example, as discussed throughout this study, the logic of ensuring safety informed a significant portion of the daily work carried out by frontline officers. This was most evident during investigations involving RCF’s, the taxi industry and when interacting with members of Hamilton’s marginalized population. In other cases, as discussed primarily in Chapter 7, the logic of easing tensions between neighbours and businesses informed officers’ frontline enforcement decisions. As a reoccurring theme throughout this research, the logic of upholding the law also played an important role shaping enforcement decisions.

Not only is this significant when attempting to explain why frontline enforcement shared a less direct link to how such enforcement was discussed in City documents, but the multiple logics guiding street-level enforcement also shaped enforcement techniques. In fact, the enforcement techniques deployed by municipal law enforcement officers shared a less direct link to the logic discussed in City documents and held by some City planners. As eluded to above, less punitive enforcement techniques were often deployed as a way to mitigate conflict within neighbourhoods. As Chapter 7 discussed, both municipal law officials and officers were well aware of how issuing Orders or tickets had the potential to escalate neighbourhood disputes. In other cases, as described in the *Taking out the Trash* narrative, the enforcement techniques deployed during proactive blitzes had little to do with blanketing neighbourhoods with Orders. While officers would issue Orders, especially when they felt residents might not comply, in other cases these same officers would simply stop and speak with a property owner/tenant about what steps needed to be taken in order to establish compliance. Interestingly, when officers deployed
more punitive sanctions (e.g., an Order or Ticket) it was most commonly in response to municipal law deficiencies which were considered to endanger the health and safety of the public. For example, as discussed in Chapters 6 and 8, the verbal warnings issued to residents were seldom granted to operators of Residential Care Facilities in cases where property standards or yard maintenance deficiencies were found. As outlined in the Compliance, Safety and Local Knowledge narrative, some officers felt personally responsible to provide a “voice” to those marginalized members of Hamilton’s population who resided in care facilities. Likewise, “throwing the book” at an absentee landlord who knowingly endangered a tenant by neglecting their property was done more so in the name of safety than higher-level City objectives. It is also possible that fining these types of landlords was seen as a form of retribution/punishment for treating their tenants in such a poor and immoral manner.

While the array of enforcement techniques deployed by officers supports the Foucauldian idea that sovereignty co-exists with discipline within modern forms of governance, the techniques officers deployed while upholding municipal laws also reinforced that a zero-tolerance approach to enforcement, despite being discussed in City documents, does not guide most street-level enforcement decisions. Likewise, in cases where zero-tolerance to enforcement was used, it was done so in the name of safety and not necessarily the City’s broader economic goals. Considered alongside the multiple logics informing municipal law enforcement in the City of Hamilton, the less punitive techniques used by officers when upholding local laws undoubtedly helps explain why street-level enforcement shares a less direct link to how municipal law enforcement is prioritized in City documents. Considered in the context of spatial and temporal scale helps to explain the gap between how enforcement is prioritized and what my time in the field revealed. Discussing this study’s findings in relation to temporal scale also
helps explain why “get tough” approaches to enforcement were not as commonly used as City documents would lead one to believe.

**Governmental Authorities: Getting Tough and Experiencing Scale**

More so than other Foucauldian thinkers, Valverde (2011a; 2014) emphasizes the importance of studying the scale of projects which seek to govern security. The spatial dynamic of scale is particularly important when explaining the inconsistencies between how municipal law enforcement is prioritized in City documents, as well as discussed by some planners, and the way street-level enforcement plays out throughout the City. In fact, the way different actors in the governing process (i.e., planners, municipal law officials and officers) experience and interpret spatial scale sheds further light on why ethnographic accounts of municipal law enforcement did not reflect how such enforcement was discussed by planners and outlined in City documents. For example, in relation to the prioritization of municipal law enforcement, the City documents (e.g. Hamilton’s Economic Development Strategy) that endorse the “get-tough” approach discuss perceptions of safety and improving aesthetic appeal on a rather broad citywide scale. Many of the planners who participated in this study discussed spatial scale in similar terms. Because of the nature of City planning itself, when discussing municipal law enforcement, most planners referred to spatial scale in broad geographic terms outlining how the appeal of the “downtown core” or “Barton and Kenilworth” area could be improved by addressing, for example, property standards violations. Comparably, municipal law officers viewed the spatial scale of their work on a far more micro-level. In fact, during informal conversations over coffee or during lunch, officers seldom discussed their work in terms of the “City” or the “downtown”, instead, they usually made reference to specific property addresses, the names of property owners or businesses. While officers were certainly aware of the
economic changes taking place in the City, the complexity of enforcing municipal laws, the
unique and at times contentious nature of property specific investigations as well as the
challenges associated with bringing properties into compliance, meant officers viewed their work
as a localized undertaking. As discussed above, while officers shared the common logic(s) of
upholding the law, ensuring health and safety as well as maintaining civility, accomplishing
these goals were contingent upon micro-level, investigation-specific details. As this study has
demonstrated, it was the micro-level details, including the demeanour of the parties involved, the
degree of non-compliance and potential threats to health and safety that influenced enforcement
decisions. While their supervisory position meant municipal law officials were required to see
spatial scale similar to that of planners, they were also aware of the more investigation-specific
spatial scale in which officers experienced their work. In this regard, the spatial scale by which
officers viewed their work and the investigation-specific details informing enforcement decisions
undoubtedly contributes to the fact that higher-level City initiatives have less influence on
frontline enforcement.

While spatial scale plays an influential role in shaping street-level enforcement
decisions, so too does temporal scale.79 For example, Valverde (2011a) suggests techniques that
may be effective during a certain temporal scale are often incompatible or less effective during
other times. As this research in Hamilton has demonstrated, temporal scale shapes how officers
respond to certain types of investigations. For instance, this temporal dynamic of scale
influenced the punitiveness of the techniques deployed by responding officers. As Chapter 7

79 Valverde (2011a; 2014) discusses how the temporal aspect of scale can influence governing techniques. For
example when studying the law, Valverde (2014) suggests that temporal distinctions between daytime/nighttime,
weekday/weekend and on a more macro-level, peace/wartime inform the enforcement practices used in the
governing process.
discussed, officers engaged in a somewhat set protocol when responding to night-time calls including asking residents for identification and issuing stern verbal warnings about the importance of abiding by the City’s noise by-law. If officers were dispatched back to a property, in most cases a ticket was issued. On the other hand, daytime noise investigations were carried out in a far less punitive manner and at no time during this study did I observe an officer issuing a ticket for this violation. Similarly, while I took part in several “exploratory investigations” into the extent to which establishments catering to the night-time crowd were providing noise to a commercial patio, at no time during my time in the field did officers investigate the coffee shops and restaurants that played music loud enough to entertain those patrons sipping coffee on patios during daytime hours. In this regard, temporal scale both influences how officers respond to certain issues of nuisance while simultaneously restricting the policing of certain issue although temporality is not the sole cause of why certain municipal law-related issues are enforced differently on the frontlines, opposed to how enforcement is prioritized in City documents, it should not be overlooked.

As described in this section, Foucault’s (1991) governmentality thesis and the governing security literature, particularly the work of Valverde (2011a; 2014), are helpful when attempting to explain the inconsistencies between how municipal law enforcement is prioritized in City documents and discussed by some planners and how such enforcement played out at a street-level. At the same time, several questions remained unanswered. For example, how do bureaucratic factors, organizational policies and the relationship between municipal law officials and officers influence the inconsistencies between Hamilton’s proactive and “get-tough” approach and what my time in the field revealed? In addition, to what extent, if any, does the complexity of municipal law-related work contribute to the less punitive approach to
enforcement I observed during my time in the field. In order to answer these questions, this Chapter will now turn to a discussion of the street-level bureaucracy literature.

**Street-Level Bureaucracy**

The attempt to explain why policies, strategic plans and initiatives fail to be implemented into practice span across multiple disciplines (Hill and Hupe, 2008). Notwithstanding the considerable amount of literature on implementation, “practitioners continue to find themselves enmeshed in the vexing challenges of converting policy intent into efficacious action” (O’Toole, 2000, p. 265). Given the breadth of research on policy implementation, a complete elaboration of the literature cannot be discussed in the space provided. However, within the literature focusing specifically on public service bureaucracies, there are several noteworthy trends relevant to the current analysis. To begin, O’Toole (2000) discusses how there has been longstanding debate whether the responsibility for unsuccessful implementation should be shouldered by those crafting policy (i.e., the top-down approach) or by those responsible for carrying out policy (i.e., the bottom-up approach). Despite these empirical disputes, in practical terms scholars agree that “variables located at the top [e.g., policymakers] or centre [e.g., management] can be important, as can context or field variables” (O’Toole, 2010, p. 268). May and Winter (2009, p. 455) share similar conclusions noting how the “translation of higher level goals into street-level action is subject to a variety of disjunctive influences”,

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80 Hamilton’s “get-tough” proactive and priority-based enforcement initiative is outlined in several City planning documents, private consultant recommendations and reports presented to council. The approach has also received endorsement by City council. With this in mind, Hamilton’s proactive approach to municipal law enforcement is perhaps best described as an “initiative” and not necessarily a “policy” per se. Taking this into account, the “implementation” literature (e.g., Hill and Hupe, 2008) provides a good starting point when explaining the inconsistencies between Hamilton’s proactive and priority-based initiatives as spelled out in City documents and how such enforcement played out on the frontlines.
including the clarity in which goals/objectives are articulated from those who create them, organizational arrangements and managerial supervision. Relevant to the current analysis, the street-level bureaucracy literature adds that the implementation of policies is also influenced by micro-level factors including the discretionary decisions of governmental and public service employees working on the frontlines.81

According to Lipsky (1980, p. 3) street-level bureaucrats are “teachers, police officers and other law enforcement personnel, social workers…and public employees who grant access to government programs and provide services within them”. Lipsky believed that (1980, p. 8) in contrast to some types of policymaking, taking place “far removed from the daily life of neighbourhood residents…the policy implemented by street-level bureaucrats is immediate, personal and on the spot”. For Meyers and Vorsanger (2007, p. 153) “street-level bureaucrats, operate as bureaucrats who not only deliver but actively shape policy outcomes by interpreting rules and allocating resources”. For Lipsky, (1980) a gap exists between formalized top-down rules, regulations and policies and the unpredictable nature of street-level interactions with members of the public. Put differently, street-level work often involves decisions with immediate human implications and therefore street-level bureaucrats become involved in “situations that are too complicated to reduce to programmatic formats” (Lipsky, 1980 p. 15). For Lipsky (1980 p. 14), the discretionary decisions of street-level bureaucrats become a form of coping with their daily workload, the never-ending public demand for services and the rigid organizational processes and policies shaped by “political elites”. The discretionary decisions made by street-level bureaucrats are also influenced by “an implicit tension between resource

81 Similar findings can also be found within the policing literature (see for example Alpert et al., 2005).
constraints and the inexorable demands for public service” (Lipsky, 1980 p. 172). Hence, the
day-to-day pressures associated with frontline work, including the gap between ongoing demand
and available resources, force street-level bureaucrats to take on a more pragmatic approach to
their work (Hupe and Buffat, 2014). As Maynard-Moody and Musheno (2000, p. 354) suggest,
“by substituting their pragmatic judgment for the unrealistic and untenable views of those with
formal and legitimate authority, the street-level workers are in their own view, acting
responsibly”. Lipsky (1980) views this pragmatism as both necessary and problematic as well as
being the root cause of conflict between street-level bureaucrats and management who often
attempt to curtail discretion as a way of ensuring policies and rules are consistently applied.

Since Lipsky’s seminal publication, scholarship on street-level bureaucracies has sought
to explain the disparity between stated policies and street-level actions amongst social workers
(Evans, 2011), police and rehabilitation workers (Maynard-Moody and Musheno, 2000; 2003),
welfare workers (Sandfort, 2000) and (un)employment officers (May and Winter, 2009). The
last several decades of scholarship on street-level bureaucrats has shed further light on a
multitude of factors that lead to a disjunction between policy and practice (May and Winter,
2009). For example, from the onset, the way policy goals are communicated by elected officials
and other administrators down the chain of command plays an influential role in how policy is
implemented (May and Winter, 2009). As Evans (2011, p. 373) suggests “the view that policy is
communicated in a pristine state is implausible…policy has percolated through several political
levels before it reaches street-level, and has been the subject of argument, dispute and
compromise”. Complicating things further, Maynard-Moody and Musheno (2000) suggest some
street-level bureaucrats view policymakers and elected officials as “out of touch with reality”
because their positions only allows for an abstract view of society opposed to the personal and emotional relations that form through interactions with citizens at a street-level.

Street-level bureaucracy scholarship continues to examine the relationships between organizational structure, management and street-level decisions made by front-line workers. The literature on public sector bureaucracies suggests the desire of management to curtail the discretion of frontline workers is not necessarily out of concern that street-level bureaucrats lack the capability to address issues in a way that matches higher-level policies. Instead, it is important for public service bureaucracies to maintain a unified front, ensuring public accountability is met and that street-level decisions demonstrate consistency (Wilson 1989; Sandfort, 2000; Hill and Hupe, 2008).

More recent street-level bureaucracy literature also suggests that the relationship between managers and frontline workers is not always rigidly structured by clearly defined superior and subordinate roles. For example, in some cases, managers do not define their loyalties “in exclusively organizational terms” (Evans 2011, p. 371). In this sense, management themselves may place less credence on organizational goals or policies. Research also suggests managers are often drawn from the same frontline group they oversee which often levels out the hierarchical relations traditionally associated with bureaucratic structures (see, Friedson, 1994). When it comes to organizational relationships, it has also been noted that street-level bureaucrats often make clear distinctions between those superiors who have first-hand experience and understand the complexities of street-level work and those who do not (Sandfort, 2000). Also important is the role of organizational subculture and the relationships between street-level bureaucrats. Sandfort (2000, p. 742) suggests street-level bureaucrats “depend on interactions with their colleagues to help shape experience – processing piles of forms, interacting with
managers, interpreting vague administrative policy, responding to demanding clients – and
developing shared schemas”.

Recent research highlights how the discretionary decisions made by street-level
bureaucrats on the frontlines are often in conflict with higher-level policy objectives. Similar to
Lipsky’s original thesis, trends in recent empirical studies on street-level bureaucrats support the
notion that the gap between higher-level policy objectives and frontline practices is not a product
of disregard or ignorance on the part of street-level bureaucrats. Although street-level work is
structured by organizational hierarchies, rules and procedures, these factors play a lesser role in
shaping frontline work as street-level bureaucrats most often rely on personal judgements and
past experiences when responding to members of the public (Sandfort, 2000). As Maynard-
Moody and Musheno (2003, p. 10) suggest, “street-level work is ironically, rule saturated but not
rule bound”. Maynard-Moody and Musheno’s (2000; 2003) research is particularly fruitful in
relation to the current study. Based on an analysis of narratives drawn from interviews with
police officers, teachers and councillors, Maynard-Moody and Musheno (2000, p. 348) conclude
that “rather than discretionary state-agents who act in response to rules, procedures and law…
street-level workers describe themselves as citizen-agents who act in response to individual
citizens clients in specific circumstances”. This of course is not to suggest that street-level
bureaucrats completely abandon organizational guidelines or policies. Instead, Maynard-Moody
and Musheno, 2003 p. 348) suggest “when rules and procedures fit, street-level judgment is not
problematic; there is no conflict, no dilemma and not incidentally, no story to tell”. On the other
hand, “when law, policy and rules are ill matched to worker’s view of fairness and appropriate
action, street-level work smolders with conflict over what is the right decision and what is the
right thing to do” (Maynard-Moody and Musheno, 2003, p. 10).
Consistent with the street-level bureaucracy literature, the bureaucratic/organizational structure of municipal law enforcement plays a role in understanding the inconsistencies between how municipal laws are prioritized and how laws are enforced in practice. For example, the extent to which proactive enforcement contributes to improving the physical conditions in certain blight-filled areas is impacted by the resources devoted to this type of enforcement. As discussed in Chapter 6, in comparison to the 40-50 officers investigating municipal law complaints, Hamilton’s dedicated proactive team consisted of no more than 4-5 officers. As this would suggest, proactive municipal law enforcement is somewhat stifled by the limited number of officers assigned to this type of enforcement.

The hierarchy of rules and procedures regulating municipal law enforcement as well as the number of properties in a state of non-compliance throughout the City (many of which are minor violations) cannot be overlooked. As Lipsky (1980) and Hupe and Buffat (2014) suggest, the rule structures found in most public service bureaucracies combined with the ongoing demand for services and lack of available resources, force street-level bureaucrats to rely on more pragmatic approaches to their daily tasks. As several municipal law officers and officials discussed, the broad scope of municipal regulations combined with subjective clauses within certain laws means most properties in the City of Hamilton have a minimum of one or two municipal law infractions. When considered alongside the limited number of officers devoted to full-time proactive enforcement, the sheer scale of non-compliance within most neighbourhoods makes a “zero-tolerance” approach problematic when considering the realities of street-level work. In other words, even if the 4-5 officers tasked with proactively enforcing municipal laws issued Orders for every violation they encountered, the time it takes to inspect a property, issue
an Order and complete follow-up inspection(s) would significantly limit the geographical reach this type of enforcement could have. Taking this into consideration, the contribution that proactive enforcement of municipal law makes to Hamilton’s broader economic goals is limited by resources and the volume of non-compliance throughout the City.

The amount of non-compliance, even in middle and upper-class neighbourhoods, led some officers to take a more pragmatic approach to enforcement and when Orders were issued, only the most pertinent deficiencies were listed. As part of this pragmatism, and similar to past research on municipal law enforcement (see Proudfoot and McCann, 2008), enforcement decisions were also shaped by officers’ “geographical imaginations” and more personalized views of acceptable standards within different neighbourhoods. For example, as described In the Shadows of Industry narrative, although the post-World War II home had multiple property standards violations, similar violations were also visible on other properties throughout the neighbourhood.\(^{82}\) In relation to the In the Shadows of Industry investigation, the time it would take to issue property standards Orders to almost every house in the neighbourhood should not be overlooked. Given the conditions of other houses in the neighbourhood, many of which showed similar signs of age, inspecting and issuing Orders to each property would have consumed at minimum a full eight-hour shift (not accounting for follow-up inspections and dialogue with property owners). In other cases, this more pragmatic approach meant not issuing Orders at all and instead educating local resident(s) about Hamilton’s municipal laws and outlining what could be done to bring a property into or “closer” to compliance. As discussed

\(^{82}\) Valverde (2011a) uses the term “metaphorical spaces” to describe how more subjective views about certain spaces influence the governance process.
during interviews with municipal law officials, this education-based approach was endorsed by municipal law officials.

Unlike the amount of time it takes the police to issue tickets to panhandlers and squeegee cleaners (see, O’Grady et al., 2013), the amount of time it takes to issue an Order and complete follow-up visits should also not be overlooked in relation to the less punitive approach taken by some officers. As noted in Chapter 6, Compliance Orders are not simply “one-and-done deals” as one officer described, as each Order requires a follow-up visit and often a series of phone calls to the non-compliant property owner. If a local resident or business was either unsure of how to address the deficiency or disagreed an Order was given, an officer might have to visit a property multiple times. In relation to Hamilton’s “get-tough” approach, it should also be noted that the more punitive the sanction, the more time an officer has to devote to that particular investigation. In cases where a municipal law related violation had no set fine or short-form wording (e.g., zoning violations or some parts of the licensing by-law) and a Part III summons was issued, an officer might be in the office for a full day completing a briefing for the crown attorney. Similar to when an accused party decides to fight a Provincial Offence Notice (e.g., a ticket for public urination), a Part III summons also required officers to attend court. While these time constraints were only one factor influencing enforcement decisions, they cannot be overlooked in terms of the less punitive approach taken by most officers.

The general nature of municipal laws, some of which are subjectively defined and others more objectively, also need to be understood in relation to the disparity between how municipal laws are prioritized in City documents and what played out during ethnographic observations. While representing only a fraction of the total amount of enforcement, it is important to make clear that municipal law officers do engage in proactive enforcement that is reminiscent of the
order-maintenance styles of policing. However, this approach to enforcement is most often used in cases where laws are outlined in objective terms. As Maynard-Moody and Musheno (2003 p. 348) note, in cases where “rules and procedures” are compatible with the situations bureaucrats encounter at a street-level, the decision making process becomes less problematic as there is often “no conflict, no dilemma and not incidentally, no story to tell”. For example, of all the municipal laws enforced in Hamilton, the City’s response to the issue of illegal dumping is perhaps most reminiscent of a zero-tolerance approach. While the punitive response to illegal dumping shares a close relationship with efforts to improve the image of the downtown, the municipal laws regulating the illegal disposal of waste are black and white. As highlighted in Chapter 6, on any given day the City of Hamilton has minimum one or two Illegal Dumping Monitors combing the streets for potential violations. Not only do Monitors remove garbage from city-streets and alleyways, they also open bags and meticulously sort through the content in an attempt to find some shard of evidence that could lead to a charge. Similarly, although informed by efforts to ensure health and safety, the enforcement of the schedule of licensing by-law regulating Residential Care Faculties (RCF) was often carried out through a similar zero-tolerance approach. The objective nature of the licensing by-law as well as the more marginalized sectors of the population most often relying on the industry contributed to this more punitive approach. The relatively objective criteria outlined in Hamilton’s nuisance by-law regulating public urination is another noteworthy example.

As Maynard-Moody and Musheno, (2003, p. 10) explain, in cases where laws, rules and policies are “ill-matched” to a bureaucrat’s perception of fairness “street-level work smolders with conflict over what is the right decision and what is the right thing to do”. With this in mind, municipal laws containing subjective, unclear or even contradictory clauses were less often
enforced by way of a zero-tolerance approach. For example, the “likely to disturb” clause defining qualitative noise in the City of Hamilton’s noise by-law required officers to use their own personal judgement over whether a loud radio or a group of people drinking beer in a backyard warranted a ticket. As discussed in Chapter 7, with few exceptions, most notably the investigation described in the Level 3 Noise narrative, officers would wait until being dispatched to a property a second time before considering issuing a ticket. Symbolically, revisiting a property a second time reinforced the noise was enough to meet the likely to disturb clause in the City’s noise by-law. Daytime noise investigations required no less personal judgement on the behalf of officers who most often attempted to strike neighbourhood compromises instead of issuing tickets. Although a clear line can be drawn between objectively structured laws regulating a bag of trash illegally disposed in a City alley and the subjectively defined wording of the noise by-law, some of Hamilton’s municipal laws, although in theory falling into the objective category, placed officers in difficult enforcement positions. While Valverde (2005) is correct in suggesting municipal laws tend to regulate “uses” not people, there is an undeniable human dimension to municipal law enforcement that cannot be overlooked. For example, despite the rigid nature of Hamilton’s zoning by-laws, officers used a considerable amount of discretion when deciding whether or not to enforce laws that could have detrimental effects. This was especially true in cases involving illegal dwellings. To draw on the same dramaturgical analysis discussed above, the “backstage” view officers were exposed to during these types of investigations undoubtedly influenced their assessment of whether laws were “ill-matched” with the situations they encountered when interacting with the economically disadvantaged.

As discussed throughout the street-level bureaucracy literature, the way elected officials and management articulate policy goals to those working on the frontlines shares a close
relationship to how policy is implemented at the street level (May and Winter, 2009). While most of the City planners who participated in this study viewed proactive enforcement as a “get-tough” approach to municipal law in close relation to the City’s broader economic goals, these same officials were certainly not blind to the socio-economic divide throughout the City. In fact, when asked about the extent to which proactive enforcement could be leveraged to help improve the physical aesthetics and perceptions in the downtown, one planning official suggested proactive enforcement was best used to address issues of safety in Hamilton’s rental market. In this sense, there was some disparity even amongst planners when it came to how proactive enforcement is best used.

As discussed in Chapters 5 through 7, City Councillors play an important role in identifying areas in need of proactive enforcement blitzes while also passing along complaints from their constituents. Given the cultural, economic and social diversity of the City, especially in the downtown core, neighbourhood issues and more general complaints channelled through Councillors’ offices pertained to a broad range of municipal law-related issues, many of which had little to do with Hamilton’s broader economic agenda. Instead, many Councillor complaints led to reactive investigations and had to do more with minor issues of civility and disputes between neighbours.

The street-level bureaucracy literature puts considerable emphasis on the role management plays in shaping how higher-level policies play out at the street-level. While Lipsky assumed managers act as “policy lieutenants”, this was not always the case in this study. Recent scholarship has pointed out how the relationship between management and street-level bureaucrats may share a less direct relationship to traditional hierarchical bureaucratic organizations. Friedman (1994) notes how professional bureaucratic organizations commonly
hire management from the frontlines opposed to seeking individuals without street-level experience. As Sandfort (2000) suggests, the relationship between management and street-level bureaucrats is often strengthened when managers have had frontline experience themselves and understand the adversity of street-level work. This is important for two reasons. First, more so than City planners, municipal law officials had an intimate understanding of the complexity of enforcing municipal laws and knew the reality that most enforcement was complaint-based and reactive instead of proactive. Secondly, this street-level experience made municipal law officials empathetic to the realities of street-level work and the importance of discretion. While a hierarchical relationship did exist between municipal law officials and officers, the officers who took part in my study did not always view superiors as individuals who were unaware of the challenges and inherent complexities of enforcing municipal laws. Likewise, supervisors granted municipal law officers a considerable amount of autonomy in how they structured their day, how they responded to complaints and for the most part, the punitiveness of the sanctions they did or did not impose. At least to a certain extent, the autonomy offered to frontline officers helps explain why some higher-level initiatives play a lesser role in shaping frontline enforcement decisions. At the same time, contrary to being outsiders within the organizational subculture, their time spent on the frontlines granted many municipal law officials insider status with officers. This is also significant as past research on street-level bureaucracies suggests that organizational subculture is a more powerful force influencing street-level decisions than formal higher-level policies (see Sandfort, 2000). As interviews with municipal law officials suggested, while some viewed proactive enforcement as a method of improving the physical conditions of the downtown, others highlighted how proactive enforcement was an important tool to ensure safety and educate residents on Hamilton’s municipal laws. In particular, municipal law officials
also noted how proactive enforcement could be leveraged as a way to educate tenants who resided in unsafe dwellings. This would suggest that municipal law officials, while aware of how proactive enforcement is linked to urban renewal, also saw value in using proactive enforcement for other means (education). By occupying a space within the organizational subculture of municipal law enforcement, municipal law officials’ support of officers’ less punitive approaches to enforcement undoubtedly influenced the decisions made on the frontlines.

In relation to Maynard-Moody and Musheno’s (2000) citizen-agent/state-agent typology, municipal law officials did not necessarily encourage officers to take on a citizen-agent role at the expense of being a state-agent during all investigations. As noted throughout this dissertation, the importance of upholding municipal law was an important theme during investigations. However, given the unpredictability of enforcing municipal laws in Hamilton, officers were also not discouraged from taking on a role of citizen-agent even if it meant mitigating disputes outside of their legal jurisdiction (e.g., a landlord-tenant issue) or taking a far less punitive approach to enforcement. In fact, when municipal law officials did intervene and influence enforcement, this was at times to encourage officers to take a “soft approach” as in the case of the illegal pedlar described in Chapter 8. While the relationships between municipal law officials and officers was relatively strong, during my time in the field there were, at times, tensions over how certain issues should be addressed.

As mentioned in several sections of this research, during my time in the field there was debate over the extent to which officers with a reactive designation should be engaging in proactive enforcement. As discussed in the street-level bureaucracy literature, the policies and regulations that define public service bureaucracies often place limitations on the implementation of broader policy objectives. For example, it has been argued that the desire to maintain
organizational creditability and public accountability tends to emphasize procedure over outcome (see, Wilson, 1989; Hill and Hupe, 2008). In other words, the effort by management to curtail the front-line discretion of street-level bureaucrats is done in the name of accountability but at the expense of policy outcomes. In relation to proactive enforcement, this is particularly important as the City of Hamilton’s proactive approach to municipal law enforcement has received considerable criticism from local media outlets. For example, several local news outlets ran articles criticizing the City of Hamilton for using proactive enforcement to target the areas surrounding Tim Horton’s field in the weeks leading up to the Pan Am games. This desire to maintain accountability was undoubtedly intensified given the scandals in other City departments in the months leading up to, and during my time in the field. This included the termination of 29 outside workers for time theft and the suspension of six Hamilton Police officers who allegedly falsified tickets to homeless individuals in the downtown core. Municipal law officials’ effort to regulate proactive enforcement and the emphasis on procedure had considerable impact on frontline enforcement practices. For example, some officers, despite holding a reactive designation, engaged in proactive enforcement in a rather ad hoc manner whenever they encountered a clear violation. As described in the Licensing Pornography narrative, on occasion, this type of enforcement was influenced more by personal efforts to maintain compliance within certain industries or geographic areas of the City opposed to overarching policies. On other occasions, officers engaged in proactive enforcement during reactive investigations when they noticed an issue of non-compliance at a neighbouring property. During my time in the field, I witnessed several occasions where officers looked past clear municipal law violations that would have otherwise been addressed if the officer was designated proactive or if someone complained about the violation. At other times, most notably during evening noise
shifts, the managerial boundaries placed on proactive enforcement meant officers would drive past a loud house party spilling out on to the front yard while on route to issue a verbal warning to a small backyard family gathering whose laughter and chatter disrupted a neighbour enough to warrant a complaint. As noted in Chapter 6, concerns over the authorization of overtime also constrained the extent to which officers could proactively address forms of social disorder. For example, despite issuing multiple public urination tickets in the City’s entertainment district, the officer’s decision to work past the end of his/her designated shift (in part due to a request by the police) was met with significant displeasure from municipal law officials because the overtime needed to be authorized via the union’s seniority policies. In this sense, despite the over one-thousand dollars of tickets issued during the several hours of unauthorized overtime and the deterrent effects such enforcement presumably had, the outcome of addressing social disorder, ironically prioritized in the City’s own licensing by-law, took a sideline to procedure. As discussed in the street-level bureaucracy literature, micro-level factors and the general complexity of enforcing municipal law should also not be overlooked in the context of this dissertation’s central argument.

For Lipsky (1980, p. 15), the unpredictability of street-level, human service work often places frontline bureaucrats in “situations that are too complicated to be reduced to programmatic formats”. More recent street-level bureaucracy literature shares a similar sentiment. In fact, whether reviewing the proactive enforcement described in Chapter 6, reactive enforcement in Chapter 7 or interactions with those on the margins in Chapter 8, a reoccurring theme throughout this study has been how investigation-specific details influence enforcement decisions. For example, as discussed in Chapter 6, the physical conditions of neighbouring properties and the perceived capability of a property owner to pay for repairs, as discussed in
Chapter 8, have a considerable influence on what issues are or are not listed on an Order and the timeline given to a property owner to address the deficiencies. As described in Chapter 7, municipal law officials and officers were also aware of how punitive responses could be counter-productive in some situations where issuing an Orders or ticket could potentially escalate a dispute between neighbours. While municipal laws were not irrelevant to complaint-based investigations, Chapter 7 demonstrated how discussions with involved parties often revealed longstanding, deep-seeded tensions between neighbours. With this in mind, while reactive enforcement is not directly tied to the City’s “get-tough” approach to municipal enforcement, the micro-level details of complaint-based investigations were often ill-matched to the punitive legal apparatus offered to municipal law enforcement officers. In other words, given that officers, at times, found themselves in situations having more to do with “incivility” and less to do with the law itself, managing these disputes and attempting to strike a compromise often required dialogue with the parties involved opposed to Order and tickets. The complex relationship between municipal laws, City policies and the realities of street-level work was perhaps most evident in Chapter 8. As Chapter 8 described, municipal law officials and managers shared a common understanding that ensuring the health of safety of the marginalized was an important part of street-level work. At the same time, how officers addressed municipal law-related investigations involving the marginalized was shaped more by investigation-specific details and personal perceptions of acceptable standards when it comes to health and safety. For example, while one officer decided to “throw the book” at the absentee landlord who owned the house described in the Condemned narrative, the officers who took part in the “Generous” Absentee Landlord investigation decided the tenants were in no immediate danger, despite the exposed electrical wires and makeshift renovation on the bottom floor which prompted the police to call
municipal law enforcement in the first place. In relation to the street-level bureaucracy literature, the investigations described in Chapter 8 demonstrate how even commonly shared organizational objectives (e.g., ensuring health and safety) are influenced in practice by micro-level and situationally specific factors.

9.4 Conclusions

In summary, the inconsistencies between how the enforcement of certain municipal laws are prioritized in City documents as well as discussed by planning and municipal law officials and how such enforcement plays out in practice has been discussed in the context of two different bodies of literature. On a more theoretical level, Foucault’s governmentality thesis would suggest the day-to-day work of municipal law enforcement is in response to multiple governmental problems including the disproportionate number of residents living in poverty, the City’s aging housing stock, maintaining neighborhood civility as well as ensuring safety within certain industries. As discussed above, Valverde’s (2011a) theoretical questions regarding logic, scale and techniques also helps explain why street-level enforcement does not necessarily play-out in the manner discussed in some City documents. More specifically, it has been argued that the multiple and arguably conflicting logics which guide municipal law enforcement contribute not only to the disparity between policy and practice but also to officers’ less punitive approach to enforcement. This was particularly true with officers, where the logic informing a significant portion of enforcement was to ensure compliance, maintain neighbourhood civility and ensure safety. As discussed above, spatial and temporal scale are also helpful when attempting to explain the inconsistencies between how the enforcement of some municipal laws are prioritized and what my time in the field revealed. Sharing a link to spatial scale, it has also been suggested that officer’s backstage view (to barrow from Goffman) of the living conditions that some
economically-deprived residents endure contributes to the less punitive enforcement techniques deployed during certain investigations.

Drawing on Lipsky’s (1980) study and the street-level bureaucracy literature that followed, it has also been suggested bureaucratic/organizational structure of municipal law enforcement places limitations on the extent to which proactive enforcement can make large-scale contributions to improving the physical conditions within the downtown. In addition to a general lack of resources devoted to proactive enforcement (in comparison to reactive enforcement), the scale of non-compliance, albeit minor on most properties, combined with the bureaucratic processes associated with issuing orders, meant officers often took on a more pragmatic approach when issuing Orders and deciding what deficiencies needed to be addressed. The degree to which enforcement was carried out through a “get-tough” approach was also influenced by the objectiveness of the laws themselves. Likewise, rules over what officers should or should not be engaging in proactively combined with policies over the authorization of overtime, led to inconsistencies with respect to how and when laws were proactively enforced.

The clarity with which higher-level policy objectives are articulated and the extent to which management endorses certain goals, also influences street-level implementation. Although planners and municipal law officials acknowledged the importance of using proactive enforcement with the intent to improve the physical appeal of the City and its reputation, discussions with both groups of officials highlighted how proactive enforcement could also be used to address issues related to housing and safety. Likewise, because of their past intimate understanding of the complexities of street-level enforcement, municipal law officials supported officers’ decisions to deploy less punitive tactics during some investigations. The street-level bureaucracy literature also highlights how the decisions made by street-level workers are most
often influenced by micro-level factors instead of higher-level policy goals. In relation to this study, whether reviewing the proactive investigations described in Chapter 6, reactive investigations in Chapter 7 or investigations involving the marginalized described in Chapter 8, this dissertation has demonstrated how a significant portion of the enforcement decisions made by officers on a daily basis are significantly impacted by micro-level details. Although reactive enforcement is not directly linked to the City’s “get-tough” approach, the micro-level details of complaint-based investigations were often ill-matched to more punitive responses.

The goal of Chapter 9 has been to provide a thorough discussion of this study’s findings while also attempting to explain the inconsistencies between how municipal law enforcement is prioritized within City documents and what my time in the field revealed. This Chapter has been structured around a series of arguments relating to this study’s findings. To start, this Chapter has suggested that few past studies have offered as detailed an ethnographic account of how neighborhood conflict unfolds and is managed by municipal law officers. Next, in an attempt to explain this study’s central thesis, the second part of this Chapter drew on the Foucauldian/governing security literature, where I argued that the multiple logics informing Hamilton’s municipal law enforcement and spatial scale in which officer’s view their work helps explains the inconsistencies between how municipal laws are prioritized and how enforcement played out at the ground level. It was also argued that spatial and temporal scale play a part in the less punitive enforcement techniques deployed by officers as they attempted to uphold the law and maintain neighbourhood civility. Offering a more in depth discussion of the organizational factors that contribute to why policies fail to be implemented as planned, this Chapter also discussed this study’s findings in relation to the street-level bureaucracy literature. In this part of the Chapter, it was argued that the complexity of upholding local laws,
organizational policies and the relationship between municipal law officials and officers significantly influences the street-level decisions of those directly responsible for enforcing municipal laws. The next and final Chapter of this dissertation will discuss the specific empirical, theoretical and methodological contributions this study has made to the literature, this study’s limitations and areas of the future research. This will be accompanied by a brief discussion of the impact this study’s findings have on Hamilton as the City continues to gentrify.
Chapter 10.0 Conclusions: Enforcing Municipal Law in a Divided City

Based on over 600 hours of fieldwork and 20 semi-structured interviews, this study has offered a qualitative account of the bureaucratic and street-level politics which shape municipal law-related conflicts in the City of Hamilton. The primary goal of this Chapter is to provide a brief overview of this study’s methodological and theoretical contributions while also discussing limitations and opportunities for future research. This first part will discuss the contributions this dissertation has made to the existing literature on urban regulation, qualitative methods and the theoretically informed governing security perspective. This will be followed by a discussion of this study’s limitations and areas where those interested in studying municipal law and politics could focus their efforts. This Chapter will conclude by discussing this study’s findings in relation to Hamilton’s changing socio-economic composition.

Observing the Law: Research Questions Revisited

While exploratory in nature, the questions guiding this study were influenced not only by the general lack of research on how municipal laws govern the everyday lives of urban citizens, but also broader trends within the critical urban sociology and legal geography literature. For example, as a substantive body of critical literature has highlighted, neoliberal thinking has become an increasingly powerful force within urban politics over the last several decades (see Peck and Tickell, 2002; Harvey, 2005; Brenner and Theodore). Critiquing neoliberalism’s effect on urban regulation, past research has highlighted how intolerance for disorderly behaviour has led to widespread campaigns to regulate the homeless (see O’Grady et al., 2013), the urban poor (Wacquant, 2009), drug dealing as well as prostitution (Beckett and Herbert, 2010). Despite a lack of empirical evidence supporting the connection between disorder and crime, broken-
windows and “get-tough” approaches to urban regulation continue to flourish throughout Westernized nations (Harcourt, 2009; Wacquant, 2009; Ranasinghe, 2012). More recent socio-legal and legal geography scholarship has also highlighted how economically minded policies and constitutional concerns with existing nuisance laws have led local governments to deploy more durable means of social control to govern visible signs of disorder (Beckett and Herbert, 2010). Providing empirical evidence to support this trend in urban regulation, a growing body of literature has explored how quasi-legal counter-laws (see Ericson, 2007) are being used to govern issues like gang loitering (Levi, 2009) attending an illegal street-race (Worrall and Tibbetts, 2006) and homelessness (Sylvestre, 2010; O’Grady et al., 2013). Garnett (2010) has also explored how municipal building inspectors have become integrated into multi-agency approaches to urban disorder throughout the United States. Existing research on municipal zoning laws has also shed light on how municipal governments use land-based zoning laws to dictate the geographical distribution of homeless shelters (Ranasinghe and Valverde, 2006) and group homes (Finkler and Grant, 2011).

In light of literature discussed above, Valverde (2012) argues that qualitative urban researchers have failed to seriously address and analyze the legal dimensions of urban life. In other words, although higher profile laws targeting select sectors of the population have been studied, urban scholarship has failed to adequately address the enforcement of lower-profile municipal by-laws that govern nuisance behaviour, property standards and land-use (Proudfoot and McCann 2008; Valverde, 2012). In an attempt to address this relatively small body of past literature, and departing from existing studies on municipal law enforcement by taking place in the City of Hamilton, this study set out to explore how municipal laws and municipal law enforcement govern the conduct of the various social groups who inhabit the City. This study
also sought to examine how municipal law enforcement is prioritized and to what extent, if any, municipal law enforcement contributed to Hamilton’s broader economic and rejuvenation oriented plans for the downtown core. Given how past literature has highlighted how urban laws have been used to regulate those deemed “disorderly”, this latter question was a particularly important aspect of this study.

While the questions outlined above guided this study, ethnographic observations and semi-structured interviews unearthed a complex and often times politically contentious process where City officials and officers attempt to mediate neighbourhood conflicts and restore what was believed to be civility. More specifically, this study has demonstrated how, despite the presence of a neoliberal policy agenda, visible in the privately funded development projects reshaping Hamilton’s downtown core, as well as in some higher-level City documents, most municipal law enforcement in Hamilton is reactive and serves the function of managing conflict within neighbourhoods as opposed to displacing those who are felt to interfere with the City’s broader redevelopment agenda.

10.1 Contributions to the Literature: Municipal law, Ethnography and Governing Security

As noted in the previous Chapter, many of the major themes that emerged throughout this study are consistent with past literature that has highlighted how neoliberal ideologies have significantly influenced urban policymaking, increasing competition between cities and heightening intolerance for disorder. Considered alongside past research on deindustrialization, gentrification and the importance of maintaining, or in Hamilton’s case rebuilding local economies by emphasizing “creative” industries, this study has offered a unique empirical exploration of dysfunctional and continuous local politics that span beyond the walls of Council
chambers into the streets. Taking into account the over 600 hours of time spent in the field, this study has also offered a detailed ethnographic account of how municipal law enforcement officers attempt to not only uphold the law, but also manage neighbourhood conflicts. As described in Chapter 9, few past studies have offered the level of detail discussed throughout this study. This is true whether discussing the studies that have examined the role municipal laws play in regulating “disorderly” populations and the equally important body of literature exploring how local laws govern the everyday lives of urban citizens.

Taking into account the relatively small body of qualitative research on municipal law enforcement, this study has offered a unique empirical exploration how of local laws regulate the everyday lives of urban citizens. Making a unique empirical contribution to the urban sociology and legal geography literature, this research has demonstrated how perceptual ideas about neighbourhood space shape municipal law-related conflicts at a street-level. Likewise, this study has offered a unique exploration of how officers’ enforcement decisions are most often shaped investigation specific details opposed to bureaucratic policies. In addition, as discussed in Chapter 9, this study has also provided a rather novel look into how municipal laws regulate the marginalized in different spatial contexts than past research.

In relation to qualitative urban research, this study makes several noteworthy contributions. As a starting point, the ethnographic method this study deployed is worth discussing in relation to past research on urban law/law enforcement (see, Skolnick 1966; Black and Reiss, 1970; Manning 1980; Ericson 1981; Herbert 1989; Sanders and Hannem, 2012). As Reiner and Newburn (2008) explain, over the last several decades gaining access to policing organizations has become increasingly challenging for social scientists, in part because of the more critical turn within studies on policing and reluctance on behalf of law enforcement
officials who fear how they will be represented when results are disseminated. The challenges of gaining access also halted past research on municipal law. For example, despite numerous requests to engage in ride-alongs, Proudfoot and McCann, (2008) were denied access by municipal law officials in Vancouver. With this in mind, the ethnographic method deployed in this study is significant, not only in relation to a better understanding of the enforcement of urban law in Hamilton, but more generally within policing studies where it has become increasingly difficult to gain access to street-level enforcement.

In relation to my time in the field, this study also contributes to the qualitative literature by highlighting the challenges associated with engaging in ethnographic research. As Rowe’s (2007) study of British police suggests, establishing formal agreements at an organizational level do little in the way of developing and maintaining rapport with frontline officers. Although I was able to develop a strong rapport with the officers who participated in this study, there were times where I was accused of being an “undercover City employee”. One particular occasion, my relationship with the local media was also questioned. By highlighting these challenges, I hope to encourage, not discourage, ethnographic research on the street-level enforcement of the law.

Theoretically, this study makes several important contributions to the governing security literature and more generally to urban scholarship informed by the work of Michel Foucault. Providing empirical merit/support to Foucault’s governmentality thesis, this study has demonstrated the complex, contradictory and problematic nature of governing. More specifically, the results of this study validate Foucault’s (1991) thesis that the problems of government are always multiple. Furthermore, from a theoretical standpoint this study shed light on the fact that *techniques* of governing do not always match the *programmes* and *rationales* set
out by governments. Perhaps most importantly, by examining the daily enforcement techniques deployed by officers, this study has provided further empirical evidence to support Foucault’s theoretical proposition that sovereignty and discipline will also co-exist within contemporary forms of governance.

Although sharing a link to Foucault’s (1991) governmentality, this study also makes several unique contributions to the governing security literature. For example, this study supports the theoretical observations made by Johnston and Shearing (2003), Valverde (2011a) and Ranasinghe (2013), that opposed to being conceptualized as a static concept, in order to truly understand “security” it must be understood as a fluid process. As this study demonstrates, compliance with Hamilton’s municipal laws is neither easily established nor guaranteed in the long term once established. In addition, this study’s findings show how efforts to ensure security, for example the health and safety of Hamilton’s marginalized, can have unintended consequences. With this in mind, this research reinforces the importance of approaching the study of security with a heightened awareness of its complexity and potential ill effects.

Building on the work of Ranasinghe (2013) and Valverde (2011a) this study also makes a contribution to the governing security literature by demonstrating how security often means different things to the various people involved in the governing process. For example, on the one hand, differing from Ranasinghe (2013), this study demonstrates how there are cases where management level officials and frontline workers (or in this case municipal law enforcement officers), do at times conceptualize security in similar ways. On the other hand, several planning officials undoubtedly saw security as having a different meaning from municipal law officials and officers. With that being said, there was some variation even with the group of planners who
took part in this study. These findings undoubtedly shed further light on the complex process of governance.

While the divergent ways different actors who participated in this study conceptualized security reinforces the importance of examining questions related to the logic of security projects, this study also highlights the theoretical significance of scope, more specifically spatial scale and jurisdiction. Although the idea that different actors in the governing process see and experience spatial scale differently is not a novel idea (see Valverde, 2011a), this dissertation provides a detailed examination of how spatial scale influences governing techniques and the implementation of high-level initiatives. For example, by conceptualizing spatial scale on a more micro-level, officers’ enforcement decisions were most often shaped by micro-level factors opposed to high-level City initiatives that encouraged officers to “get tough”.

In relation to jurisdiction, this study makes a noteworthy contribution to the theoretical literature by showing how legal hierarchies do not necessarily dictate who or how issues related to security are governed. Although municipal laws yield less jurisdictional power in comparison to provincial and federal law, this study has shown that they do play an important role within the governing process. More specifically, this study highlights how municipal law officers often crossed the boundaries of their legal jurisdiction to manage conflicts related to noise on federal land and disputes between landlords and tenants. As this would suggest, the logic of managing conflicts and ensuring civility often trumped legal jurisdiction and the power granted via municipal laws. Likewise, as discussed above, this study has demonstrated how municipal laws can and do regulate issues most often addressed by the police. For example, the investigation that resulted in an officer confiscating an abortion sign demonstrates how the same problem, addressed through different legal jurisdictions, can render much different results. From a legal
standpoint, the investigating police officer’s concerns that confiscating the graphic abortion sign might violate the Charter and the protestor’s rights was a non-issue to the municipal law officer who took possession of the sign because the protestor had failed to secure the proper permits. As this would suggest, scholars who continue to study the theoretical significance of jurisdiction must be aware that legal hierarchies do not necessarily guarantee who governs certain security issues.

In addition to the Foucauldian literature, this study has also made a small contribution to the street-level bureaucracy literature. Although the street-level bureaucracy literature played a lesser role in shaping this study’s research questions, Lipsky’s (1980) original study and the subsequent street-level bureaucracy literature played a key role in explaining the inconsistencies between how municipal laws were prioritized in Hamilton and what unfolded on the frontlines. While this study’s findings are consistent with that of Lipsky (1980) and his contemporaries (see Sandfort, 2000; Maynard-Moody and Musheno, 2003; May and Winter, 2009) who suggest street-level factors are most influential in shaping the decisions of frontline workers, this study has offered a rather unique examination of the role organizational subculture plays in shaping the implementation of higher level policies. In particular, this study’s findings have demonstrated how the relationship between managers and frontline workers plays an important role in shaping street-level decisions. For example, while investigation-specific details played a key role in shaping how officers responded during interactions with the public, the amount of autonomy given to officers combined with management’s understanding that at times a “soft” approach to enforcement was needed undoubtedly shaped how officers approached their work. Likewise, this study has also offered a unique contribution to the street-level literature by demonstrating how union rules and organizational policies influence why initiatives fail to be implemented at
the street-level. This study’s discussion of the debates surrounding who should be proactively enforcing municipal laws as well as whether this type of enforcement should be utilized during non-authorized overtime serves as a noteworthy example.

10.2 Limitations and Future Research

In light of the contributions this study makes to the empirical, methodological and theoretical literatures, it is not without its limitations. Similarly, like all social science research, these limitations also provide the basis for future research. This section will first discuss this study’s limitations followed by a brief overview of the areas where scholars could focus their attention in the future when studying municipal law.

Limitations

Like Proudfoot and McCann (2008), the scope of this project was limited by obstacles set forth by the City of Hamilton. Although fortunate to be given the access I was granted, this study was restricted by a research agreement the City of Hamilton’s legal department requested I sign before entering the field. As noted earlier, this research agreement placed considerable boundaries on the types of data I was able to collect while accompanying officers throughout the City of Hamilton. For example, because of the restrictions outlined in the agreement, I was not able to collect any information on the cultural or racial backgrounds of the people we interacted with during municipal law investigations. Given Valverde’s (2012) study’s emphasis on culture, this restriction prohibited a potentially empirically rich comparison between Toronto’s municipal law enforcement and Hamilton’s. In addition, while my original plan was to record more detailed information about the geographical locations where each investigation took place, this element of the study was also restricted by the research agreement imposed on this study just

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prior to my entrance into the field. As noted in this study’s Methods Chapter, the agreement I signed with the City of Hamilton also requested I use caution when including anything the officers discussed with me during my time in the field. Although this did not place limitations on this study like other aspects of the research agreement, this clause did force me take sometimes painstakingly overt attempts to ensure something an officer told me could be included in this study. In retrospect this mostly likely increased the time it took to develop a strong rapport with some officers.

Finally, it should also be noted how requests to gain access to statistical data on reactive and proactive enforcement were denied on two separate occasions by municipal law officials. As discussed in Chapter 4, in order to maintain the strong relationships I built during my time in the field and leave open the possibility of replicating this study in the future, I decided not to pursue a Freedom of Information request. For some readers, this may be a viewed as limitation as I was unable to document whether the number of Orders or tickets issued by municipal law enforcement officers had been influenced by economic growth in the downtown. These limitations, combined with some of this study’s unique findings open up the possibility for meaningful future research.

**Future Research**

As this study demonstrates, municipal laws regulate our lives in ways urban scholarship has seldom examined empirically. Given the relatively small body of literature on municipal law and the regulation of everyday urban life, it will be important for researchers to continue to examine how local laws influence the lives of urban dwellers across different municipalities. The geographic scope of past Canadian research, while rendering interesting results, is somewhat
limited to Vancouver (Proudfoot and McCann, 2008), Toronto (Valverde, 2012) and the City of Hamilton. Although commonalities exist between these studies, there are also notable differences in how municipal laws are enforced and the extent to which such enforcement is linked to broader planning objectives. Future studies need to build on the themes discussed throughout the current body of literature on municipal law enforcement including issues of socio-economic and cultural diversity. This would suggest that qualitative urban scholarship needs to continue to pursue the study of municipal law in different municipalities, not only as a means of comparison, but also in the pursuit of a more thorough understanding of how local laws shape the lives of urban citizens.

This study’s results also reinforce how unintended consequences can emerge in the governing process, even in cases where municipal law officers’ intentions were to ensure health and safety. In relation to future research on how the law regulates urban spaces and the people that inhibit them, it will be important for researchers to exercise considerable awareness of these unintended consequences as they can have less than favorable outcomes on certain sectors of the population. In light of the influence neoliberalism has had on urban governance, documenting and critiquing the ill-effects the enforcement of some municipal laws have on the marginalized is one way social scientists can continue to challenge the economic conditions that maintain systemic poverty and inequality.

Given the broad regulatory power of municipal laws, future research on these local laws would benefit from studies that focus more narrowly on specific laws and/or their impact on urban governance. This is especially true for those who may seek to do research on municipal law in Hamilton or cities that share similar regulatory challenges. For example, studied in isolation, an in-depth exploration of Hamilton’s vital service by-law and Schedule 20 of the
licensing by-law regulating Residential Care Facilities would be beneficial not only in terms of empirical research on municipal law, but in also providing a better understanding of the challenges associated with ensuring health and safety. The complexity of Schedule 25 of the licensing by-law and the challenges associated with maintaining compliance within Hamilton’s taxi industry would be another noteworthy example of where future research could use a more narrow focus. In this regard, while broader studies looking at a breadth of enforcement issues, (like the current dissertation) are important to our understanding of municipal laws, so too would more narrowly focused studies on individual laws.

10.3 Reflections from the Field: A Final Word

Municipal law and Urban Rejuvenation

As this study suggests, despite being linked to the City’s broader economic agenda, a significant portion of municipal law enforcement in Hamilton is reactive in nature and serves the purpose of managing neighbourhood conflict. While upholding the law and seeking compliance was of equal importance as finding a resolution that would appease both parties, officers were also concerned for the well-being of the City itself. Although officers concern for the well-being of the City did not materialize in “get tough” approaches to enforcement, many of the officers who took part in this study openly discussed their personal connections to the City. In fact, while travelling between investigations officers often pointed out streets, homes, schools and other City landmarks that had some type of meaning to them personally. In this sense, although officers did not necessarily see their daily enforcement decisions contributing to Hamilton’s broader economic goals, the sum of their daily interactions, a significant portion of which was in
response to neighbourhood disputes, undoubtedly plays an important, yet unacknowledged role in managing civility throughout the City.

In light of these findings, it would be incorrect to assume that municipal law enforcement does not play a role in the City’s broader economic goals. Likewise, although the reach of proactive enforcement is limited by a small number of officers dedicated to this type of enforcement, bureaucratic rules regulating street-level work and the scale of non-compliance throughout the City, it would be incorrect to assume that proactive enforcement has not had an impact on the physical conditions of the downtown. Similarly, although utilized less than other types of enforcement techniques, Hamilton’s municipal law officers do address some issues through a zero-tolerance or “get tough” approach. However, more punitive approaches were most often reserved for those who appeared to jeopardize the health and safety of residents as opposed to a general strategy informing the enforcement of all municipal laws. At the same time, it is important to note that municipal law enforcement is not the only agency involved in regulating the downtown core. That is, while municipal law enforcement officers often deployed less punitive enforcement measures, they are only one of the agencies involved in upholding laws in the downtown. In fact, as discussed in Chapter 5, the Hamilton Police have issued thousands of Provincial Offence Notices (tickets) in the last several years in this part of the City.

In many ways this dissertation has provided a street-level exploration of what could be considered Hamilton’s dysfunctional dance (to use Valverde’s 2012 term). With this in mind, this study has provided several examples of political decisions that arguably contradict Hamilton’s broader economic goals. For example, given the emphasis within the urban studies literature and Hamilton’s planning documents on the importance of attracting knowledge-based industries and members of the “creative class”, the enforcement of some municipal laws are
arguably counterproductive to the City’s broader economic agenda. As discussed earlier, a City’s ability to attract members of the so-called creative class is dependent upon its ability to provide what are believed to be unique and authentic urban experiences. With that being said, while accompanying officers there were times when the enforcement of certain by-laws, most often related to noise, contradicted the promotion of Hamilton as a City with character. For example, despite the fact a majority of patrons at the neighbouring restaurants had turned their chairs to get a better view of the band playing down-tempo blues music on a front porch just down the street, the responding officers requested the band stop playing immediately as someone in the neighbourhood had complained. In stark contrast to the loud, late-night parties officers often drove by on route to other noise complaints, the front porch concert taking place in the fading daylight of the early evening appeared and sounded rather tame.

Similarly, one of the more contentious municipal law-related debates that took place during my time in the field was how to respond to the bars and restaurants violating the clause in the zoning by-law prohibiting entertainment to a commercial patio. As experienced firsthand during these types of investigations, there is little doubt the noise emanating from the speakers of bars and restaurants was loud enough to disrupt those who resided in the surrounding neighbourhoods. The debate amongst municipal law officials and officers was whether the noise should be addressed by way of the City’s zoning by-law, which when violated resulted in a Part III summons, or through the City’s noise by-law which would require officers to issue tickets each time they encountered a violation. Directing the issue to the City’s legal department, the decision was made to pursue the noise issue through the zoning by-law. The decision to enforce this clause of the zoning by-law is worth discussing within the context of the City’s economic goals. While it would be incorrect to assume providing entertainment to a patio suits the cultural
tastes of every member of the creative class, there is little doubt those who prefer some type of soundtrack alongside their patio meal or beverage may decide to venture outside of the city in search of this experience. Given the heightened competition between cities, it could be argued that by enforcing the clause that bans entertainment to a commercial patio Hamilton is perhaps viewed as less attractive to potential consumers and investors who might choose to take their business to neighbouring cities like Toronto, who market the large portion of the downtown as an “entertainment district”. This is not to suggest Toronto does not have its own problems regulating noise in the night-time economy (see, Valverde, 2012, p. 111).

**Housing the Marginalized**

Hamilton’s municipal law officers often went to great lengths to ensure what they considered to be the health and safety of the marginalized. While organizational culture, including the role municipal law officials play in supporting “soft” approaches to enforcement influenced the more accommodating approach deployed by officers when interacting with the marginalized, the stark economic contrast existing in Hamilton should also not be overlooked. In fact, the frequency in which Hamilton’s municipal law enforcement officers interacted with the marginalized was more a product of the disproportionate number of downtown residents who live in poverty and rely on the City’s aging and at times deteriorating stock of rental properties. The marginalized reliance on the thousands of illegal dwellings scattered throughout the downtown core, many of which range in quality, is also linked with a long waitlist (approximately 5500 households) from what Hamilton calls Rent-Geared-To-Income Housing (City of Hamilton, 2013). Although Hamilton does have laws in place protecting the health and safety of the marginalized, a significant portion of the interactions described in Chapter 8 took place during investigations relating to property standards, zoning and other municipal law related
issues. Conversely, the attempt to enforce laws put in place to protect the health and safety of the marginalized, like the vital services by-law, are hindered by the efforts of tenants who feel it necessary to protect their absentee landlords. Hamilton’s lack of affordable, suitable and safe housing options undoubtedly leads some of Hamilton’s marginalized to remain silent out of fear of eviction.

As the investigations described in Chapter 8 demonstrate, a solution to what is arguably a housing crisis in Hamilton will undoubtedly require efforts from all levels of government. For example, Hamilton’s reliance on the private sector to provide housing for the marginalized means inconsistencies in quality and safety. It also means absentee landlords can continue to disregard their properties knowing that as more middle and upper class gentries purchase houses in the downtown, the availability of rental units decreases. In this regard, the investigations discussed in Chapter 8 reinforce the need for more purpose-built rental housing in cities like Hamilton, an endeavour that will require financial support from the province and federal government. This is not to suggest the responsibility for addressing housing issues is entirely the responsibility of higher-levels of government. On the contrary, out of all the issues discussed throughout this study, the issue of zoning and displacement is the most pertinent to the City of Hamilton moving forward.

While this study reinforces the need for additional financial support from all levels of government in order to fund suitable and affordable housing options for marginalized populations (see, Gaetz, 2010), how Hamilton chooses to enforce certain zoning laws has immediate implications on the City’s vulnerable. Given rising housing costs and that renewed interest in the downtown is slowly depleting the number of suitable rental options, if there was ever a time for the City to revisit the issue of secondary dwellings and enforcement of zoning
laws - it is right now. Although proposed changes to the Ontario Planning Act are slated to grant cities like Hamilton new powers that force developers to include a certain number of affordable options in all new developments, inclusionary zoning policies (if passed by the province) will not take effect until 2017. Likewise, all of the developers currently building in Hamilton would not be affected by the new legislation. In addition, these changes to the Ontario Planning Act will have little impact on the current issue at hand; namely, how Hamilton enforces zoning by-laws.

As this study has demonstrated, zoning laws wield a great deal of power within municipal land-use policies. However, much like the enforcement clause of the zoning by-law that prohibits entertainment to a commercial patio, the choice to uphold residential zoning restrictions lays solely in the hands of City officials and council. Given the notable shortage of suitable rental housing, particularly in the downtown, and the over 5500 families waiting for Rent-Geared-To-Income housing, it could be argued that a more appropriate response would be to focus on improving the physical conditions within the rental market. As one City planning official suggested, the illegality of a property should not be based on its zoning but rather the extent to which physical conditions endanger the people who reside inside it. At the same time, while officers’ vested interest in helping the marginalized did lead to situations where officers “threw the book” at absentee landlords, this approach rendered less than favourable results. Similarly, how the officers responded to the zoning violations and substandard rental housing varied considerably. As discussed earlier in this Chapter, much like the enforcement of other municipal laws, perceptual notions of safety led to somewhat inconsistent and ad hoc responses to issues of health and safety throughout the City. Although the autonomy and discretion granted to officers is an integral part of enforcing municipal laws, if there is any type of investigation
where set protocols should be put in place it is in substandard rental housing. With this in mind, these protocols need to focus on improving standards and not displacing tenants.

**Gentrification and Neighbourhood Standards**

As a final point, it is also worth discussing how gentrification is influencing the types of complaints the City receives and what impact this could have on enforcement moving forward. In part because of the organizational culture itself, street-level enforcement decisions were less informed by Hamilton’s economic renewal agenda. Regardless, changes to the social composition of Hamilton’s neighbourhoods do influence the complaints the City receives. Although not all neighbourhood change is caused by gentrification, Hamilton is attracting new residents from other neighbouring municipalities. This will undoubtedly continue to alter the social geography of Hamilton moving forward and while many of Hamilton’s new residential developments promote the mixed-use principles now normalized within urban planning, social mixing of people from different socio-economic backgrounds has not necessarily generated the “tolerable” effects that Richard Florida promised. Instead, Proudfoot and McCann (2008) have highlighted that in Vancouver, social mixing only elevates the expectations within neighbourhoods. Similarly, research on Toronto’s Regent Park area found the efforts to increase the social mixing of people who lived in the area actually eroded collective efficacy (Thompson et al., 2013). As this would suggest, as the economic composition of Hamilton continues to change, becoming more polarized, the City needs to ensure enforcement decisions, whether reactive or proactive, are considerate of the economic, cultural and social diversity found throughout the City.
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Appendix A: Interview Guides

Interview Guide A: Municipal Enforcement Officials

Based on my time here it is clear that city receives dozens of complaints a day that are by-law related

- How do you manage all of these complaints?
- Do certain types of calls (i.e. illegal dumping, property standards or noise) take priority?
- Who does the complaining in the City? What proportion are residents, businesses and/or local neighborhood groups?
- Why do you think these people make all these complaints?
- Are they simply trying to maintain their neighborhood standards?
- Are these complaints really ongoing (arguably civil), disputes that the city just gets dragged in to?

It seems to me that sometimes the city is placed in a tough position when it comes to the nature of some of these complaints (especially when neighboring properties are also in violation).

- How can the City justify enforcing on one property and not another when they have a violation in plain sight
- How are officers supposed to deal with these situations (especially when some laws seem outdated or unrealistic

The city gives officers a range of methods to deal with disputes.

- Are there set criteria’s for when officers “educate”, give a verbal warning, put an order on the property or press a charge?
- The City also has the option to add “fees for services” to properties that do not comply.
- What is the purpose of the “fees for service” option? Is it only about cost recovery or more of a deterrent

Some of the officers have mentioned that there are people who are constantly complaining to the city.

- How does the City deal with these chronic complainers? (Toronto actually has a by-law that allows officials to stop taking complaints from people).

Speaking about “chronic complainers,” it also seems that the city has some individuals and businesses that are constantly in non-compliance of municipal law. During my time here, I have noticed that one of the major challenges for the officers is tracking down absentee landlords and property owners. Obviously, every city has their share of these individuals.
Who are these absentee landlords, where do they come from and why do they create such a problem for the City?

Council has debated licensing rental housing in the City.

Would a licensing system help combat the issue?

Related to housing and property standards, I have also attending several properties that are arguably well below standards.

How does the City balance improving the living conditions in these properties and not displacing tenants?

Based on my observations it seems that the City is very invested in helping those who live in poverty, live with disabilities and those who are new to Canada.

Is this something that is prioritized at a management level or just the general culture of the municipal law enforcement here in Hamilton?

The taxi industry seems to pose some major compliance challenges for the City. Could you briefly review what the most significant problems are?

What makes the taxi industry so difficult to regulate?

The original goal of my research was to look at how municipal law contributes to the improvement of the downtown...Based on my experience here it seems that the City spends a great deal of time in the downtown core.

To what extent, if any, does the enforcement of municipal law contribute to the rejuvenation of the downtown or the City of Hamilton in general for that matter?

There is no denying that the downtown is going through some major changes (i.e. condo building and business expansion).

Have these changes had any type of influence on how enforcement is prioritized or the type of complaints that the city now receives.

To what extent, if any, do you think the education approach (informing people about property standards, noise by-laws etc.), contributes to rejuvenation in the downtown core?

How does the education approach contribute to managing disputes between neighbours?

During my time here, I have also noticed that some enforcement is reactive and some is proactive...What is the difference between the two styles of enforcement?
• Who decides what areas of the City should be proactively policed and for what types of violations?
• What are the goals of proactive enforcement (short-term and long-term)?
• How does the City of Hamilton measure the effectiveness of proactive enforcement?

**Interview guide B: Planners/City officials**

It is no secret that Hamilton’s downtown core is experiencing some major changes when it comes to economic development.

• What is driving this change?

The City’s official plan suggests the importance of drawing people to the city and keeping them here:

• What are the magnets that are drawing people to Hamilton?
• From a planning perspective, it seems that Hamilton has some major plans for the downtown could you give me an overview of some of these plans

**Hamilton’s real estate market seems to be going through quite an upturn**

• When did this transformation begin and what has caused it?
• Why is drawing people to the downtown neighbourhoods?

**In the past Hamilton has been seen as an industrial city**

• How is industry changing in Hamilton?
• Has the shift and industry effected the composition of neighbourhoods.

**Hamilton strategic plan suggest that is important to market Hamilton not as a “changing city” but as a city “that has changed”**.

• In what ways has Hamilton changed? Over what time period?

**The city has recently released its long-term plan for the Barton and Kenilworth redevelopment. The report recommends several things including I need to make people feel safer in the downtown core.**

• How does the city plan to make the downtown core safer?
• How do you change the perceptions of this area?
• Kent municipal by-law play a role in creating a safer environment?
I have also spent a significant amount of time and planning meetings about some of the developments in the downtown core. At these meetings, it seems that some people oppose the new developments.

- Why do people oppose development/projects in the downtown?
- What impact do these issues have on the planning process?
- How does the city balance the concerns of residents with the broader redevelopment agenda?

I have noticed that a lot of neighborhood groups attend planning meetings to discuss their concerns about development

- Why do you think the neighborhood groups raise their concerns so often?
- How does the city balance maintaining the “uniqueness of neighborhoods” while still fostering economic growth?
- To the people I see regularly at planning meetings reflect the consensus of the downtown population.

During my time here, I have noticed that one of the major challenges for the city is tracking down absentee landlords and property owners. Obviously, every city has their fair share of these individuals.

- Could you briefly review why these individuals present such a challenge for the city?
- One solution suggested in the Barton and Kenilworth report would be to reach out and educate landlords about the long-term vision - how could you go about reaching out to these individuals

The goal of my research is to look at how municipal law contributes to the improvement of the downtown (safety, security and urban renewal)

- To what extent if any do you feel that the enforcement of municipal by-laws contribute to the rejuvenation of the downtown?

The work that municipal law enforcement does for the City’s complex

- Does the enforcement of property standards by-laws contribute to the rejuvenation of the downtown?
- Does the management of conflicts and disputes between neighbors contribute to the rejuvenation of the downtown?
The City’s official plan talks about Richard Florida’s work and his idea that long-term sustainable economic growth is contingent upon the three T’s technology talent and tolerance

Tolerance: being an open society that celebrates diversity and accommodates difference

The city documents discussed diversity in length

- What does the city mean by diversity?
- What makes the downtown so diverse?
- From the perspective of planning how is diversity accounted for in the neighborhoods of Hamilton?

As I encountered when doing my right along municipal law enforcement officers, the city still has a sector of its population that will lives in poverty?

- How do the strategic plans of the city account for issues of poverty?

What are the effects of economic growth is increasing property values; one of the downsides is that rising housing costs may displace tenants

- Is affordable housing something that is accounted for in neighborhood planning?

City documents also talked extensively about “quality of life” is an important element of economic growth

- how does the city foster environments to maintain a reasonable standard of quality of life for all given the diversity of the city

Several major planning documents emphasize the idea that “environment drives behavior”

- What is meant by this statement?

Planning documents also suggest that any meaningful change within the city of Hamilton must be facilitated through community engagement

- How does the city engage its citizens into the planning process?
- What are some of the challenges of attempting to incorporate these voices into the City’s plans?
Appendix B: Letter of Support from City of Hamilton

October 5, 2013

University of Guelph’s Research Ethic Board
50 Stone Rd E, Guelph, ON
N1G 2W1

This correspondence is to confirm that I met with Rory Sommers, Ph.D candidate in Sociology on October 30, 2014 to discuss his research project. The City of Hamilton’s Municipal Law Enforcement (MLE) Section has agreed and gives our permission for Rory Sommers to accompany and observe our By-Law Officers in the field as they carry out their daily enforcement responsibilities.

The MLE section enforces approximately 50 by-laws using a Council directed priority based enforcement strategy. We have 4 teams of Officers as follows;

Environmental Team
Investigates and enforces the Yard Maintenance By-law #10-118
- Long Grass/Weeds
- Garbage/Debris
- Graffiti
- Inoperable Vehicles
- Waste Management

Property Standards and Zoning Team
Investigates and enforces the Property Standards By-Law #10-221 and Zoning By-law #05-200
- General Standards For All Properties
  - Heating Systems
  - Interior Structural Components, Floors, Ceilings and Walls
  - Doors, Windows etc
  - Lighting
  - Exterior of Buildings, Structures, Fences and Retaining Wall
  - Vacant Buildings
- Zoning – Legal Usage of Land

Licensing and Permits Team
Investigates and enforces Licensing By-Law #07-170
- Business License (Food Establishments, Skill Trades, Adult Entertainment etc)
- Lottery License
- Taxi Inspections
Special Enforcement Team
Investigates and enforces all By-Laws in addition to the;
   Noise By-Law #11-285
   Public Nuisance By-Law #09-110
   Multi Agency Task Force Inspections

We will work with Rory to determine a suitable schedule to ensure he has exposure to the
various teams and enforcement strategies. Please do not hesitate to contact me should
you require additional information.

Respectfully,

Kelly Barnett
Municipal Law Enforcement, Parking and By-Law Services Division
Planning and Economic Development Department
Phone: 905 546 2424 ext. 1344
Appendix C: Research Agreement

RESEARCH PROJECT AGREEMENT

WHEREAS the City of Hamilton (“City”) oversees municipal by-law enforcement, parking, licensing, animal services, and school crossing guard services in Hamilton, Ontario through its Parking and By-law Services Division (“By-law Services”);

AND WHEREAS Rory Philip Sommers (“Student”), a doctoral student in the Department of Sociology and Anthropology at the University of Guelph, under the supervision of Professor Bill O’Grady, wishes to observe the activities of By-law Services Officers, between March 31st and August 15th, 2014, for the purpose of a research project (“Research Project”) in partial fulfillment of the Student’s thesis requirements;

NOW THEREFORE, in consideration of the City permitting the Student to observe the activities of By-law Services Officers for his Research Project, the Student and the University of Guelph agree and acknowledge:

1. in this agreement the following terms have the following meanings:

   “Anonymized Information” means information stripped of Personal Information;

   "Personal Information" means recorded information about an identifiable individual, as set out in section 2 of the Municipal Freedom of Information and Protection of Privacy Act, RSO 1990, c M.56, as amended, and includes:

   (a) information relating to the race, national or ethnic origin, colour, religion, age, sex, sexual orientation or marital or family status of the individual,

   (b) information relating to the education or the medical, psychiatric, psychological, criminal or employment history of the individual or information relating to financial transactions in which the individual has been involved,

   (c) any identifying number, symbol or other particular assigned to the individual,

   (d) the address, telephone number, fingerprints or blood type of the individual,

   (e) the personal opinions or views of the individual except if they relate to another individual,

   (f) correspondence sent to an institution by the individual that is implicitly or explicitly of a private or confidential nature, and replies to that correspondence that would reveal the contents of the original correspondence,
(g) the views or opinions of another individual about the individual, and
(h) the individual’s name if it appears with other personal information relating to the individual or where the disclosure of the name would reveal other personal information about the individual;

2. that the Student will not collect, use or disclose any Personal Information he becomes aware of in the course of the Research, and further that;

(a) the Student will not collect, use or disclose any of the following information he becomes aware of in the course of the Research Project:

(i) Personal Information relating to a City employee;
(ii) information pertaining to items under litigation;
(iii) information that constitutes the proprietary information of a third party, individual or group;
(iv) information that might reasonably be regarded as having been disclosed to the Student in confidence; or
(v) information that is of a sensitive nature, or information that imparts to the person in possession of such information an advantage not available to the public generally,

(b) the Student will collect, use and disclose only the following information:

(i) the general nature of By-law Services interactions with the public;
(ii) the City ward in which a By-law Services officer attends to respond to a complaint made to the City;
(iii) Anonymized Information with respect to individuals; and
(iv) the general nature of the enforcement action taken by a By-law Services officer when responding to a complaint made to the City, and

(c) the Student will consult with the Community Liaison Coordinator in By-law Services if clarification is required regarding the foregoing.

3. that no photographs will be taken by the Student while conducting the Research Project;

4. that any notes made by the Student during the Research Project will:

(a) not include any Personal Information;
(b) be used exclusively for the Student’s educational purposes, such as peer reviewed journals, and for no other purpose including, but not limited to, any commercial use.
5. that any product resulting from any notes made by the Student during the Research Project will
   (a) include only Anonymized Information;
   (b) be used exclusively for the Student's educational purposes, such as peer reviewed journals, and for no other purpose including, but not limited to, any commercial use.

6. that in conducting the Research Project, the Student will comply with all applicable federal, provincial and municipal legislation, regulations and by-laws;

7. that the Student will not permit any person to attend with him while conducting the Research Project unless that person has signed an appropriate agreement satisfactory to the City in advance of such attendance

8. that the City will not be responsible for or liable to the Student, or any other party, in conjunction with the death or personal injury of any person or any damage or loss of property experienced during the Research Project unless resulting from the negligence or wilful misconduct of the City or its employees, agents, officers, directors, and servants; and

9. that the University of Guelph defend, indemnify and save harmless the City from any and all claims, actions, damages, injuries, costs, expenses or losses whatsoever, which may arise or be brought against the City as a result of or in connection with the Research Project by the Student or anyone who accompanies the Student in accordance with this Agreement unless resulting from the negligence or wilful misconduct of the City or its employees, agents, officers, directors, and servants.