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ORDINANCE #45

Regulation and Provision for Temporary Banners

1. Purpose.

The Town of Bolton hereby finds and declares the need to make provision and provide regulation regarding the installation of temporary banners within the municipality with the intention of affording an administrative process in securing a permit, making rules for installation, establishing time limits for display, and to protect and preserve the visual environment while balancing the needs for commercial enterprise and business activities to communicate through the use of temporary banner signage.

The purpose of this ordinance is also to protect the public health, welfare, safety, peace and tranquility of the residents and visitors within the Town of Bolton by providing a uniform regulation with respect to the use of temporary banner signage.

Due consideration has been given with respect to making such provision for suitable placement, time limits, size limitations and locations appropriate for a proper balance between the regulated activities and existing or anticipated businesses, community activities and residential uses within the municipality by selecting limits of conduct, display, placement and appropriate time periods for the regulated time period as herein provided.

2. Title of Ordinance.

This ordinance shall hereafter be known and cited as the “Regulation and Provision for Temporary Banners”.

3. Definitions.

A. Temporary Banner – A not-for-profit enterprise or commercial venture display of a name, identification, written announcement, depicted declaration, device, demonstration or illustration which is affixed to, applied upon, painted, carved or composed to represent directly or indirectly upon a background or field and associated with a building, structure or parcel of property and by a non-permanent nature (meaning a temporary time period of reasonable short duration) directing attention to an object, product, place, person, event, activity, institution, organization or business; but excluding personal, private, residential, non-commercial, holiday or festival displays.

4. General Provision.

A. A temporary banner shall require issuance of a permit. Such permit may be issued for a period of between one day, but not to exceed thirty (30) days.

B. A temporary banner permit application shall be available from the office of the Zoning Administrator and shall be presented upon the written permission of the property owner or their agent, and the proper fee as established by the town board shall be paid at the time of application submission.

C. A temporary banner permit shall issue upon acceptance of the application and proper fee by the zoning administrator. A temporary banner permit shall be issued for a specified term of at least one (1) day, but in no case exceeding a period of

thirty (30) days. Issuance of a subsequent temporary banner permit for the same tax map parcel shall be authorized after the expiration of a forty-five (45) day period commencing upon the expiration of a prior temporary banner permit.

D. A temporary banner shall be removed at the owner/applicant's cost within 24-hours of expiration of the permitted temporary term.

E. Types of temporary permitted banners allowed:

(1) One-sided banners, not to exceed 24 square feet in area.

(2) Double-sided, freestanding banners, not to exceed 24 square feet in area

F. Regulation on the placement of temporary permitted banners.

(1) Temporary one-sided wall or façade banners shall be placed flush against the wall or façade of a structure.

(2) Temporary one-sided wall or façade banners shall not project more than four (4) inches from the surface of the wall or façade of the structure to which they are attached.

(3) A temporary permitted banner shall not be attached to a fence, tree, utility pole, rock or other such part of a natural landscape, nor be placed in such a position that it will obstruct or impair pedestrian vision or vehicular traffic or in any manner create a hazard or disturbance to the health and welfare of the general public.

G. Maximum number of temporary banners permitted:

(1) For each tax map parcel, only two (2) active temporary banner permits (per wall, façade, free-standing, or any combination) shall be issued covering a concurrent time period.

(2) No more than three (3) temporary banner permits per tax map parcel shall be issued in any one calendar year.

H. Fee for temporary banner permit:

(1) The fee chargeable for issuance of a temporary banner permit shall be due at the time of application. Such fee shall be determined by resolution of the town board.

(2) The text, design, message or communicated content on a permitted temporary banner may be changed within the designated permitted period without further application or fee, however, in no case shall the size or installed location be changed contrary to the original permit.

5. Penalties for offenses and enforcement.

A. Penalty for failure to apply for a sign permit. Any person who proceeds to erect, re-erect, construct or structurally alter any temporary banner without applying for or obtaining a required temporary banner permit shall be considered in violation of this ordinance and shall be liable for a fine of not more than \$250.00 for each offense. Each day that a violation is permitted to exist, the same shall constitute a separate offense. The owner of the tax map parcel upon which any violation of this ordinance shall occur is presumptively the party responsible for the alleged violation.

B. Penalty for failure to comply with ordinance. In any case of a violation of this ordinance, the town board may act in such manner and authorize its agents to take any remedy conferred by law, regulation or ordinance to institute any appropriate proceedings to prevent unlawful placement, construction, reconstruction, alteration or maintenance of a temporary banner in violation hereof.

C. The Zoning Administrator or the Code Compliance Officer or any agent of either may, upon direction of the town board, order the removal of any temporary banner that is not installed, placed or maintained in accordance with this ordinance.

D. Removal of certain temporary banners. Any temporary banner now or hereafter existing which no longer advertises an actual business conducted or a product sold or an event which has expired, and the same remains abandoned by a former business activity, expired event or previous product sold, shall be required to be removed by the owner of the tax map parcel, their agent or persons having beneficial use or occupancy of such building, structure or lot upon which such temporary banner is located.

6. Appeals.

A. Any applicant or owner of a tax map parcel who applies for and is denied a temporary banner permit, or for any reason seeks the issuance of a permit for a temporary banner in any size, or in any period of time, or by any configuration or installation

contrary to the provisions of this ordinance shall be denied a temporary banner permit by the zoning administrator and such denial shall be appealable to the Zoning Board of Appeals as an application for an area variance.

7. Non-applicability/Severability.

A. No provision of this ordinance is intended to prohibit or impair any person, party, entity or otherwise from the exercise of any Constitutional right afforded by the United States Constitution or the Constitution of the State of New York with respect to the exercise of any right to freedom of expression, freedom of communication, freedom of religion, or freedom of speech in any respect.

B. No provision of this ordinance is intended to prohibit or impair the private right of any person, party, entity or otherwise from the installation or maintenance of a non-commercial temporary banner or non-fundraising temporary banner.

C. No provision of this ordinance is intended to prohibit, impair or regulate installation or maintenance of any celebratory, religious or holiday banner at any private residence, as part of any public or private school event, or in conjunction with any non-fundraising activity by a not-for-profit organization or charitable entity.

D. Any determination by a court of competent jurisdiction declaring any portion of this ordinance to be unlawful shall sever the unlawful portion hereof and all other parts, subdivisions and provisions remaining shall be fully enforceable and in effect.

PROPOSED RESOLUTION

It is hereby resolved that in furtherance of the requirements of Ordinance #45 entitled “Regulation and Provision for Temporary Banners”, the Town Board for the Town of Bolton hereby establishes a fee for the issuance of a temporary banner permit in the amount of \$10.00.

