

REPORT

Council

Meeting Date: January 31, 2022

FROM: Municipal Enforcement Services Department

DATE: January 18, 2022

SUBJECT: Election Sign Regulations Review, By-law 2022-012 to amend By-law 2018-153

LOCATION: Town-wide

WARD: Town-wide

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RECOMMENDATION:

1. That By-law 2022-012, a by-law to amend by-law 2018-153 (The Sign By-law), attached as Appendix A to the report from the Municipal Enforcement Services department, dated January 18, 2022 be passed.
2. That the report on regulations surrounding election signs from Municipal Enforcement Services department dated January 18, 2022, be received.

KEY FACTS:

The following are key points for consideration with respect to this report:

- Council asked staff to report back on election sign best practices for penalties, display periods and number of signs allowed
- A municipal environmental scan was conducted to identify best practices from other municipalities
- The legal department was consulted to ensure Charter compliance
- A public questionnaire was prepared and distributed to solicit feedback on election signs which provided findings to show that signs remain the preferred method of candidate advertisement and the public continues to request enforcement of such signs
- Based on inconclusive results from the town's questionnaire and a mostly consistent practice of election sign regulation by municipalities scanned, staff are recommending election sign regulations be maintained as is, with only one minor change

- Staff are recommending a limitation of election signs along the town property frontage of cenotaphs, in an effort to maintain a clear view of cenotaphs, which has been erected in observation of veterans who served our country

BACKGROUND:

On Monday December 10, 2018, Town Council approved the following recommendation:

“That staff report back on best practices regarding election sign penalties, periods of display and number of signs allowed”

Part 10 of sign by-law 2018-153 regulates placement of election signs through a series of regulations that speak to matters such as display timing, location, vehicle signs, signs in BIAs and security deposits. These regulations have remained largely the same since 2012.

In order to respond to Council's request, staff have reviewed sign by-laws from other municipalities, consulted with the legal department and received public feedback through a questionnaire.

COMMENT/OPTIONS:

Election signs remain a key component of any political campaign. Even in the current era of online communications, tweets and robocalls, election signs play an important role in raising awareness about the election taking place and by promoting candidate name recognition. A sign placed in a strategic location in Oakville could easily be viewed by 15,000 motorists or more per day and this exposure can play a critical role in creating name recognition with potential voters. Since voters in Halton Region may be sorting through several candidates for multiple electoral positions in each ward, such as school trustees, local councillor, regional councillor, mayor and regional chair, name recognition is a key factor on voting day.

Municipalities across Canada have sought various solutions to address issues with elections signs, ranging from total bans to specific and reasonable limits on signs on public property. The most common limits include:

- Providing specific locations where signs may be displayed,
- Limiting the number of days that signs may be displayed,
- Restricting the overall number of signs a candidate may display.

While courts have recognized that preserving community aesthetics and reducing visual clutter are valid policy objectives, courts have also raised concerns suggesting this goal should not unreasonably limit freedom of expression. Some municipalities have adopted limits rather than bans in response to concerns that a

total ban could be challenged as an unreasonable limit on the constitutional right to freedom of expression as guaranteed under section 2(b) of the *Charter of Rights and Freedom*. Other municipalities have moved forward with total bans.

Considerations

Information included below details results of the staff review of election sign regulations.

Municipal Scan

Sign and election sign by-laws from a number of surrounding municipalities were reviewed with respect to the display of election signs and election sign enforcement. These municipalities include Barrie, Brampton, Burlington, Guelph, Hamilton, Kitchener, Milton, Mississauga, and Oshawa.

Below is a chart with a summary of the findings from the Municipal Scan:

| Key issue | Other municipalities | | Oakville |
|---|--|--|---|
| Display period of signs | Municipal election: | 24-45 days prior to election day | 45 days prior to election date |
| | Provincial/Federal Election | 45 days prior election date or date of writ being issued | 45 days prior election date or date of writ being issued |
| Removal of signs | 48-96 hours after election day | | 3 days (72 hours) after election day |
| Locations permitted for sign posting | Most do not permit signs on public property except: <ul style="list-style-type: none"> • Oshawa does permit election signs on City roads • Milton permits election signs on minor arterial, multi-purpose arterial and collector roads • Guelph permits election signs on highways, subject to various separation distances between signs from the same candidate/third party (see the table below) | | Permitted display on: <ul style="list-style-type: none"> • arterial road allowances including major, multipurpose, minor and industrial arterial road allowances |
| General restrictions | Restrict the placement of signs so that they do not obstruct or interfere with pedestrians, vehicular traffic, traffic control signals, etc. Election signs are also not permitted to be placed in locations where they could obstruct or interfere with fire escapes, fire exits, doors, windows, etc. | | |

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|--|--|--|
| Separation distances for sign placement | Milton, Guelph and Oshawa's election sign regulations contain separation distances between signs and school crossings, daylight triangles, residential and industrial property lines, etc. | separation distances for signs as follows: <ul style="list-style-type: none"> • within a road allowance with respect to intersections, bus stops, fire hydrants, etc • prohibits an election sign within 10 m of another election sign for the same candidate. |
| Sign deposit/fee requirement | <ul style="list-style-type: none"> • Guelph and Milton require candidates or their agents to obtain a permit in order to display election signs. • The cost of the permit is refunded if the signs are removed by the required time and there are no outstanding fines or election sign prosecutions resulting from violations of election sign regulations. | <ul style="list-style-type: none"> • \$200 deposit and registration required allowing candidate eligibility to post signs |
| Election sign enforcement | <ul style="list-style-type: none"> • all of the municipalities confiscate election signs that violate their election sign • A fee for the retrieval of election signs must be paid by candidates or their agents in 5 of the municipalities • 4 of the municipalities allow for sign retrieval at no cost. | <ul style="list-style-type: none"> • Retrieval fees of \$50 for signs illegally placed prior to election day • Retrieval fee of \$10 per sign removed 72 hours after election day |

It is clear from the review of sign and election sign by-laws in the target municipalities that election sign regulations are relatively consistent. The major differences are:

- the limit on the number of election signs per candidate/third party in Barrie, Brampton and Guelph;
- the separation distances between the same candidate's or third party's election signs in Guelph and Milton; and
- whether or not elections signs are permitted on roadways vs private property.

Public Questionnaire

A public questionnaire on election sign regulations was open between June 28 and July 12, 2021. The questionnaire was advertised through a news release, social media posts, and Eclipping. As a result, 382 responses were captured to help guide regulation development.

The questionnaire contained 12 questions and one free form comment opportunity. Respondents identified as 95% Oakville resident and 6% business owner. In addition, 3.14% of respondents identified as a current or past elected official and 1.31% identified as a person intending to run for elected office.

Looking at where respondents come from, they were asked to identify as living, working, or owning/managing property based on a Ward. This question indicates that the highest number of responses come from Ward 4 at 20.16% and the lowest Ward 7 at 5.24%.

Key takeaways from the survey include:

1. 68.32% of respondents feel that election signs are a distraction to drivers
2. 78.01% of respondents feel that there are too many election signs
3. 52.62% of respondents feel that election signs are an effective way to inform voters of candidates
4. Majority of respondents feel that enforcement should be more prevalent

Even though some of the public feedback gathered could suggest a need for additional regulations, this must be weighed against a possible infringement on the candidate's constitutional right to freedom of expression under section 2(b) of the *Charter of Rights and Freedom*.

As a result, staff believe the current regulations address community aesthetic concerns adequately and the increased enforcement achieved by the transition of election sign management to Municipal Enforcement Services will respond to other concerns raised.

Observance of Cenotaphs

One specific area of concern brought to the attention of staff is obstruction of Cenotaphs. The concern brought to the attention of staff noted excessive election signs posted along the frontage of parks with a Cenotaph. As a result, staff are recommending an amendment Part 10 of the Sign by-law, which would prohibit the placement of election signs along the frontage of town properties where a cenotaph is located. The addition of restrictions on the placement of election signs along the frontage of a cenotaph will ensure that the cenotaph is available to view from the street in observance of our country's veterans. Please see attached Appendix B as a redline version of the amendment to Part 10.

Enforcement of Election signs

In 2017, the enforcement of election signs transitioned from the Engineering Department to Municipal Enforcement Services. Part of the rationale spurring the transition was an opportunity for enforcement to be undertaken more regularly by Mobile Compliance Officers (MCO) who work 7 days a week with up to 4 officers available on any shift. This level of enforcement was not available prior to the transition. The MCO team enforces the election sign regulations by picking up signs found in violation and storing them until they are retrieved. This process will continue throughout a campaign and ending 3 days after the election. Candidates have up to 30 days after an election to pick up their signs. Any signs remaining after the 30-day period are disposed of.

Candidates are required to pay a fee to be eligible to erect election signs. Once an election is announced, all eligible parties contacted and provided with details on how to submit their sign deposit of \$200. Once a deposit is received, the candidate is provided a package outlining all sign regulations and advised of the cost for any signs retrieved and stored, which is \$50 per retrieval prior to Election Day and \$10 per sign retrieved after Election Day. These fees are deducted from the deposit submitted by the candidate.

Staff have calculated the costs associated with enforcement during the 2018 municipal election given that this was the first municipal election where MES were leading enforcement and administration efforts. Administrative staff assist with the program as they coordinate the needs of the candidates in providing information relating to the election sign regulations and deposit, sign pick ups and deposit refunds. The costs are split into the following categories:

- Staff costs relating to enforcement and administration of the program
- Revenue relating to candidate deposits submitted and fees assigned for sign pick up as part of enforcement efforts

Based on the criteria noted above the total cost of enforcement (officer and administrative time) was \$14,793 whereas the total recovery from signs picked up was \$2,840.

The time that staff allocates to the enforcement and administration of the program ensures that the election sign regulations are upheld to promote fairness and equity among the candidates and minimize the number of signs in the community. This level of enforcement and availability of administrative support was not available prior to the transfer of services in 2017.

Staff will continue to monitor the cost and cost recovery ratio of election sign enforcement. Should the need arise, staff will report to a future budget committee with any sign deposit increases necessary to off-set costs.

Housekeeping

To provide greater clarity and create efficiencies staff have included two housekeeping amendments:

- Addition of 7.1 of Part 10 providing regulations surrounding the information required to be posted on third party election signs
- Inclusion of the Municipal Elections Act in Section 9 of Part 2 which outlines that a permit may be issued if all provisions of the by-law and any other applicable law known to the Designated Official has been complied with.

Recommendation

Staff is recommending that Council receive this report for information and approve the minor amendment restricting the placement of election signs along the frontages of town land with cenotaphs and addition of regulations surrounding the information required on third party election signs.

By keeping the current regulations in place the town will continue to support candidate's right to freedom of expression as guaranteed under section 2(b) of the *Charter of Rights and Freedom*.

Staff will continue to proactively and reactively monitor areas along public roadways where signs are permitted and respond to public concerns.

CONSIDERATIONS:

(A) PUBLIC

Notice of this report was provided to all active Residents Associations and on the town's website notifying residents of the proposed by-law amendment.

(B) FINANCIAL

There is no financial impact proposed

(C) IMPACT ON OTHER DEPARTMENTS & USERS

Multiple departments including Enforcement Services, Clerks and Legal have been involved in the review and development of the new amending by-law.

(D) CORPORATE STRATEGIC GOALS

This report addresses the corporate strategic goal(s) to:

- provide outstanding service to our residents and businesses
- be accountable in everything we do
- be honest in everything we do

(E) CLIMATE CHANGE/ACTION

N/A

APPENDICES:

Appendix A – By-law 2022-012, a By-law to amend by-law 2018-153 (Election Signs and Cenotaphs)

Appendix B-Redline Version Part 10 of Sign By 2018-153 - Election Signs and Cenotaph Amendment

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