

REPORT

COUNCIL

MEETING DATE: FEBRUARY 23, 2015

FROM: Engineering and Construction Department

DATE: January 23, 2015

SUBJECT: Fees for Election Signs on Public Property

LOCATION: Town wide

WARD: Town wide

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RECOMMENDATION:

1. That the report *Fees for Election Signs on Public Property*, from the Engineering and Construction Department dated January 23, 2015, be received.
2. That staff prepare an amendment to the Sign By-law 2006-005 to:
 - A. Remove the retrieval fee, deposit and 30-day disposal of election signs;
 - B. Authorize a \$100 administrative fee for the display of election signs; and
 - C. Authorize the immediate disposal of election signs displayed in contravention of the Sign By-law.

KEY FACTS:

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

- This staff report is in response to Council direction.
- The town's operating budget in conjunction with nominal collected fees supports patrol and enforcement of the Sign By-law during elections.
- Patrol/Enforcement costs for the 2014 municipal election were approximately \$30,000.
- Staff canvassed abutting municipalities about their operating practices for enforcement, collection and disposal of election signs.
- Staff are providing several options for Council's information.
- Options are based on whether or not Council approves a Notice of Motion at its meeting of February 23, 2015 banning election signs from public property.
- Staff is recommending that Council approve Option 1C.
- Should Council approve the Notice of Motion, then staff would recommend Option 2A.

BACKGROUND:

The Engineering & Construction department, along with support from Roads and Works Operations, provides enforcement of election sign regulations on public property during municipal, federal and provincial elections, as per the town's Sign By-law 2006-005 (as may be amended). Enforcement includes pro-active patrols of roadways to observe that the placement of election signs conforms to the town's by-law, re-active inspections regarding complaints about election signs, collection and storage of signs placed contrary to the by-law. An administrative process for candidates to retrieve confiscated signs is also managed by the Engineering and Construction Department.

The Sign By-law limits the placement of elections signs on public property along arterial road allowances only. Additional restrictions ensure election signs do not pose a safety hazard or obstruct the view of pedestrians and motorists. Further, the by-law regulates the display of elections signs as follows:

No person shall erect, locate, or otherwise display an election sign:

- *In the case of a Municipal election, prior to nomination day as set out in the Municipal Elections Act;*
- *In the case of a Federal or Provincial election, prior to the issuance of the writ for the election;*
- *In the case of any election, for a period greater than 3 days immediately following the day of the election.*

At the Council meeting of December 22, 2014, a Notice of Motion to ban the display of all election signs on public property was introduced. The Notice of Motion will be considered at Council's meeting of February 23, 2015.

In addition, Council also provided the following direction to staff:

That staff be requested to report back to Council on February 23, 2015 regarding how fines could be set that would be reflective of the costs that the town incurs to enforce the by-law prohibiting election signs on public property.

This report has been prepared to address Council's direction.

COMMENT/OPTIONS:

Oakville's Most Recent Election Sign Enforcement Experience:

Oakville's Sign By-law provides for a retrieval fee, a disposal fee and a post-election removal fee of \$50.00 for each category associated with the collection and disposal of election signs that are placed contrary to the by-law. The three fees are based on an unlimited number of signs retrieved by the owner, removed from municipal property or disposed of by staff. Candidates wishing to display election signs on public property, as permitted under the by-law, are also required to provide a \$200 deposit. Fees associated with retrieval/disposal/removal are deducted from the deposit. The by-law prescribes that any signs collected cannot be disposed of for at least 30 days – this results in the town requiring to store hundreds of signs during elections.

The recent 2014 municipal election included sixty-eight (68) registered candidates (mayoral, ward councillors, school trustees and regional chair). Fifty-two (52) of the candidates intended to display elections signs on public property and provided the \$200 deposit. The patrol and enforcement function provided by staff resulted in the collection/storage of roughly 2,000 elections signs that were placed contrary to the by-law during the months of September/October. Patrol/enforcement expenses (staff time, vehicles and fuel) were approximately \$30,000. This expense is charged to the operating budget. Fees collected under the by-law for retrieval/disposal/removal totaled \$3,400, which nominally offset the patrol/enforcement expenses.

It should be noted that patrol/enforcement expenses related to federal and provincial elections are considerably less due to the significantly fewer number of candidates participating.

Fees can be collected by a municipality for the purpose of recovering its costs – in this case related to the expense of collecting signs placed contrary to the by-law. Fines on the other hand are different in that they are imposed by the courts as a result of a by-law infraction and fine amounts are based on the concept of punishment and deterrence. During the 2014 election, staff did not prosecute contraventions of the Sign By-law through the issuance of Part I tickets pursuant to the *Provincial Offences Act* – the costs to enforce the provisions through prosecution are prohibitive and impacts already limited court time for other by-law infractions.

What are our Neighbouring Municipalities Doing?

Staff canvased the adjoining municipalities of Burlington, Milton and Mississauga for information related to operating practices for policing election signs on public property. Burlington staff advised they do not permit election signs on public property and that staff collected approximately 725 election signs during the 2014 municipal election. Burlington does not collect a deposit fee from their candidates, nor have they imposed a fee structure. However, staff indicated election signs collected during the municipal

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election are available to be retrieved by the candidate by way of an administration fee of \$80.00 per individual sign. Staff confirmed no signs were retrieved during the 2014 municipal election.

Milton staff indicated their municipality does allow election signs on municipal roadways (with restrictions) and that staff collected approximately 400 election signs during the 2014 municipal election. Milton does not collect a deposit fee, nor have they imposed a fee structure. Staff indicated election signs collected during the municipal election are available to be retrieved by the candidate at no cost during the election. Candidates are provided three days after the election to remove all signs. Any signs subsequently collected are subject to an administrative fee of \$58.00 per sign.

Mississauga staff advised their municipality does not permit election signs on public property and staff collected and disposed of approximately 3,500 election signs during the 2014 municipal election. Mississauga does not collect a deposit or charge retrieval fees to their candidates. However, they indicated that any election signs collected are permitted to be immediately disposed of by staff.

Mississauga staff also advised their election sign enforcement procedure previous to the most recent election included a fine for each illegal election sign collected. Staff indicated the prosecution component of the fine burdened staff well into the next calendar year, with little benefit of collecting the full fine amount. Staff indicated they forego enforcement through prosecution and instead immediately dispose of the signs.

What Can Oakville do to Off-set Patrol/Enforcement Expenses during Elections?

The options below are categorized based on the following (both options require an amendment to the Sign By-law):

1. Election signs continue to be permitted on Public Property (arterial roads only),
2. Elections signs are banned from public property:

Option 1A – Maintain Operating Budget for Patrol/Enforcement of Election Signs on Municipal Property (Status Quo)

The Engineering & Construction operation budget would continue to fund the patrol/enforcement of election signs during municipal, provincial and federal elections. As per the Sign by-law 2006-005, as amended, the retrieval/disposal and post-election removal fees of \$50.00 (unlimited number of signs) will continue to be applied, as would the current \$200 deposit. This fee only nominally offsets (approximately 10%) of the patrol/enforcement expenses that are applied to the operating budget.

Option 1B – Increase Fees Associated with the Collection of Election Signs Placed Contrary to the Sign By-law

The by-law could be amended to provide a removal fee in the range of \$10 -15 per election sign; the deposit fee could also be increased to \$500 per candidate. The fee would be deducted from the deposit. Using this prescribed fee at the level of signs collected during the last municipal election (2,000), this option will likely result in offsetting most expenses related to patrolling/enforcing elections signs. The town would continue to store signs that are collected for up to 30-days and candidates would be able to retrieve signs at no additional charge. However, in the event a candidate's deposit is exhausted during an election (i.e. removal fees exceed the deposit) candidates would be required to pay a \$10-15 per sign fee should they wish to retrieve their signs.

Option 1C – Implement Immediate Disposal of Election Signs Collected in Contravention of the Sign by-law (RECOMMENDED)

As with Option A, the Engineering & Construction operation budget would continue to fund the patrol/enforcement of election signs during municipal, provincial and federal elections. The retrieval fee, deposit and 30-day disposal clause would be replaced with an amendment to impose a mandatory \$100 administration fee to all registered candidates and also authorize the immediate disposal of election signs collected in contravention of the Sign By-law. While this option would not generate additional significant revenue, it would reduce staff time (estimated at a minimum by approximately 1/3) to administer the retrieval of signs by candidates as well as eliminate the need for considerable storage space for hundreds of election signs during election periods. This is similar to the current practice in Mississauga with the added requirement that all registered candidates would be required to pay a \$100 administration fee to be able to place signs on public property (arterial roads).

Option 2A – Implement Immediate Disposal of Election Signs Collected from Public Property

This option is similar to Option 1C but without the requirement for the mandatory \$100 fee as the town cannot impose a fee to place signs on public property if the by-law is amended to ban them. If Council authorizes a prohibition of election signs on public property, staff recommend the following:

THAT staff prepare an amendment to the Sign By-law 2006-005 to:

- (a) Prohibit the placement of election signs on public property;*
- (b) Remove the retrieval fee, deposit and 30-day disposal of election signs, and*
- (c) Authorize the immediate disposal of election signs displayed in contravention of the Sign By-law.*

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Option 2B – Increase Retrieval Fee for Signs Collected from Public Property

The operating budget would continue to fund the patrol/placement of election signs during municipal, provincial and federal elections. The disposal/post-election removal fees and the deposit would be repealed (cannot impose these fees if signs are banned). The by-law would include an amendment to charge a higher retrieval fee (e.g. \$50 - \$80 per sign) should candidates wish to retrieve signs that were collected as a result of them being placed on public property. This is similar to the current practice in Burlington.

Discussion:

The patrol and enforcement function associated with elections signs during an election is very labour intensive and takes staff away from doing their typical day-to-day work. In 2014, a part-time seasonal staffer was retained for a period of approximately six (6) weeks to support the patrol/enforcement function. While this was helpful, significant time of other full time staff continued in order to keep up with the demand to enforce the by-law – and this continues to take staff away ability to perform the normal work during election periods.

The current practice (Option 1A) results in the town absorbing approximately \$26,000 per year in operating expenses. The fees charged under the current Sign By-law only accounted for about 10% of the cost to enforce the by-law. The initial deposit is perceived by some candidates as costly but is necessary to ensure we can collect the fees charged.

Increasing fees (Option 1B) will result in the town collecting significantly more to offset its enforcement expenses – and would result in most of the expenses being offset. A deposit is still necessary to ensure collection of the fees. The increased deposit amount to \$500 may be perceived by some as making it too costly to run for municipal public office. This option provides a range for the sign removal fee (\$10-15) - Council could choose to increase or decrease the fee with a corresponding net effect to the associated enforcement expenses.

Implementing an immediate disposal clause can be applied regardless of the outcome on the Notice of Motion. If Council elects to continue to allow signs on public property, Option 1C would apply; if signs are banned then Option 2A would apply. Both options would reduce the amount of staff-time associated with managing the retrieval process of collected signs; however, will not offset the balance of the patrol/enforcement costs. It would simplify things significantly for staff in managing the process but the town would continue to expend staff time and resources in enforcing the by-law.

Should Council approve the Notice of Motion banning election signs from public property, Options 1A, 1B and 1C above would not be applicable as the fees detailed under these options cannot be collected; the town cannot impose a fee to candidates

to collect signs if they are banned from public property. Under this scenario, Options 2A and 2B would apply. Option 2A would not impose any fees. Option 2B includes a retrieval fee; however, the reality is that sign retrieval is voluntary (no deposit on hand to deduct fee) and it is obvious from the current Burlington practice that candidates are not retrieving signs at the \$80 fee level. Council could consider a lower value (e.g. \$50 or lower) in this regard. Notwithstanding, Option 2B would continue to take significant staff time to manage the storage of collected signs.

Staff is recommending approval of Option 1C. However, if Council approves the Notice of Motion, then staff would recommend approval of Option 2A. Both options would reduce the amount of staff time involved in enforcing the by-law. Staff estimates that overall costs would be reduced by approximately 50% for either option.

Should council approve the recommendations of this report, or implement any of the above options (with the exception of Option 1A – Status Quo), staff will proceed to implement the necessary by-law amendment for Council's approval later this spring.

CONSIDERATIONS:

(A) PUBLIC

This report will be available for public viewing via the town's website as per town policy.

(B) FINANCIAL

All options will require some staff time be diverted from normal activities to carry out the patrol/enforcement of election signs. All options require varying levels of financial support from the town's operating budget.

(C) IMPACT ON OTHER DEPARTMENTS & USERS

Engineering and Construction staff is diverted from normal activities in their need to confer with campaign officials, and provide patrol/enforcement and sign clean up through election campaigns.

(D) CORPORATE AND/OR DEPARTMENT STRATEGIC GOALS

This report addresses the corporate strategic goal to:

- enhance our natural environment
- continuously improve our programs and services
- be fiscally sustainable

(E) COMMUNITY SUSTAINABILITY

Fees encouraging retrieval of election signs support both the social and economic pillars of community sustainability, as well as reduce resource consumption.

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APPENDICES:

None

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