

## REPORT

### PLANNING AND DEVELOPMENT COUNCIL MEETING

MEETING DATE: DECEMBER 10, 2018

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**FROM:** Municipal Enforcement Services, Planning Services and Legal Departments

**DATE:** November 19, 2018

**SUBJECT:** Sign By-law Review - By-law 2018-153

**LOCATION:** Town wide

**WARD:** Town wide

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#### RECOMMENDATION:

1. That By-law 2018-153 described in the report from the Municipal Enforcement Services, Planning and Legal Departments dated November 19, 2018, being a by-law to prohibit and regulate signs within the Town of Oakville and repeal By-law No. 2006-2005, be approved; and
2. That the updated fees listed in Appendix A to the report from the Municipal Enforcement Services, Planning and Legal Departments dated November 19, 2018 be approved and effective immediately, and such fees be included in the 2019 Rates and Fees schedules; and
3. That staff be directed to report back to the Planning and Development Council by the fourth quarter of 2019, on the feasibility of adding community mobile sign locations in each ward.

#### KEY FACTS:

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

- Sign by-law 2006-005 has been in effect for twelve years and has undergone multiple amendments that have affected the regulation of various sign types including elections signs, mobile signs, fascia signs and advertising signs
- In 2016, Council directed staff to undertake a review of the sign by-law and consult with the public on sign regulations
- Staff have since consulted with the public, stakeholders and the sign industry on multiple occasions to obtain input on a proposed sign by-law
- A new sign by-law and associated fees are provided for Council's consideration

## BACKGROUND:

### Sign by-law and public consultation

The following timeline sets out the evolution of the proposed sign by-law:

- November 7, 2016 – Administrative Services Committee meeting, direction to undertake a sign by-law review
- May, June, November 2017 and October 2018 – focus group consultation sessions held – group comprised of representatives from sign industry, resident associations, Chamber of Commerce, Oakville Milton and District Real Estate Board and members of the public
- July to September 2017 – online questionnaire available
- October 2017 – public open house held
- March 2018 – consultation with the developer and builder liaison groups
- June 18, 2018 – Planning and Development Council
- August 8, 2018 – public open house

### Outcomes of Consultation:

A working draft of the sign by-law was released at the Planning and Development Council meeting on June 18, 2018, to allow the sign industry, residents and Council an opportunity to provide feedback on specific regulations. To ensure all comments were heard, final public open house and focus group meetings were held after June 2018. Comments and suggestions received throughout consultation include:

- adjust the mobile sign separation distance
- make process guides available to the public
- create online applications
- streamline application process
- develop a one window approach to sign applications
- include community mobile sign spaces in mobile sign online map
- increase the number of community mobile sign locations per ward
- increase number of real estate open house signs permitted
- permit both an SEMB and mobile sign the same property

### Detailed Requests

#### *Mobile sign regulations*

The mobile sign industry provided input early in the public consultation process requesting the existing 30 meter separation distance between mobile signs and any other sign be adjusted to only apply to other mobile signs on a property. To address this the regulation has been changed, although a 30 meter separation distance continues to apply to mobile signs, charitable mobile signs and feather banners.

Mobile sign regulations were also impacted by the introduction of Static Electronic Message Boards (SEMBs). The proposed bylaw now provides businesses with additional flexibility in advertising through SEMBs on ground signs in land use designations including; commercial, employment, motor vehicle, institutional and community. As such, regulations in those land uses do not permit the use of mobile signs or feather banner signs on properties that have an SEMB on a ground sign.

#### *Real Estate Signs*

A request from the Oakville, Milton and District Real Estate Board (OMDREB) was made at a topic specific meeting and they have followed that in-person request with a written submission (Appendix B). OMDREB is requesting that the number of real estate open house signs be increased from 3 to 5 per open house. Staff have reviewed this request and believe it is not in line with review objectives, to prevent aesthetic blight, minimize distraction to motorists and preserve the Town's unique character, and therefore the request has not been included in the proposed by-law.

#### *Community Mobile Signs*

A need for more community advertising was identified by the Joshua Creek Residents Association. While this request may meet the intent of sign by-law objectives, staff believe that a substantial review would be required in order to evaluate and approve new locations. As such, staff recommend that a review be conducted and a report be provided to the Planning and Development Council in the 4<sup>th</sup> quarter of 2019 regarding the feasibility of additional community mobile sign locations in each ward.

#### **COMMENT/OPTIONS:**

To achieve the desired goals of the sign by-law review, all aspects of the by-law including format, function and standards were reviewed. Highlights of the proposed by-law are included below:

#### Format

The format of the by-law has been significantly overhauled to make the document easier to navigate and more understandable for the end user. To improve the user experience, staff used a format similar to the Town's zoning by-law, incorporating easy to use tables based on land use designations or specific uses such as motor vehicle dealerships, motor vehicle service stations and drive-through facilities.

#### Land use designations

The town's Official Plan (OP) provides the most objective measure of expected and planned character through established land use designations. The proposed by-law consolidates signage regulations into the body of the by-law and presents the regulations according to land use designation in a table format with footnotes. Each designation chart clearly identifies the signs that are permitted in that specific land

use designation, with separate charts for permitted permanent and temporary signs. Similar land use designations have been combined into larger designations for the purposes of sign regulation (ie. Community Use includes Public Open Space, Private Open Space, Natural Heritage Systems, Cemetery and Utility), resulting in a more streamlined and understandable by-law for the end user.

If a sign type is not included in a designation or use, it is not permitted. If a sign type is not included in the by-law, it is prohibited.

### Sign regulations

Beyond identifying where specific sign types are permitted, the proposed by-law contains detailed sign regulations which, can be grouped into several categories including:

- permanent signs (formerly 'fixed' signs)
- temporary signs
- signs for certain motor vehicle-related land uses
- development and real estate signs
- community signs on town property
- signs incorporating new technology

### Election Signs

Election signs may only be placed on an arterial road allowance as designated by the Town's Official Plan, including major, multipurpose, minor and industrial arterial road allowances. Road classifications north of Dundas are not in exact alignment with similar roads south of Dundas. In order to clarify road classifications, staff have included major arterial/transit corridor and minor arterial/transit corridor in the proposed by-law.

### New technology

A significant change to the proposed by-law is the inclusion of SEMBs in certain land-use designations, permitted only on permanent ground signs. Staff engaged consultants from CIMA+ to determine safety and nuisance regulations, along with human factors, such as limitations on illumination and display size for legibility.

The current by-law 2006-005 only permits SEMBs on ground signs for public schools and government institutions, and only permits the electronic display of time and temperature on commercial and employment uses. Proposed regulations for SEMBs would permit them on a broader basis, subject to comprehensive functional requirements. Regulations include:

- Limited to ground signs, and where more than one ground sign is permitted, only one may incorporate an SEMB
- Permitted in more land use designations, but with restrictions on the size of the SEMB in comparison to the size of the ground sign

- Prohibited in combination with mobile signs and feather banner signs
- Incorporated regulations that will require adjustments to the illumination levels depending on the time of day (to prevent intensity and glare), including a requirement to turn off the message board between 10 pm to 8 am where located within 90.0m of a residential dwelling
- Required submission of a traffic impact report that demonstrates the sign can comply with the regulations and does not create a negative impact.

### Exceptions and Amendments

The proposed by-law includes new options for applicants seeking changes to sign regulations. Variances have been replaced with “exceptions”, “appeals” and “amendments”. The change is intended to create efficiencies and simplify the process for the client.

To determine if a sign may be approved for an exception, the Designated Official and Appeals Committee would consider;

- if the sign is compatible with character and urban design directions of the surrounding area
- if there is a negative impact on any surrounding residential uses
- if the applicant has complied with all the terms and conditions of approval of any previous permit issued to the applicant, and
- if the applicant has provided all the required information

### *Exceptions*

An exception may only be considered by the Designated Official for an increase in overall height or total sign face area to a maximum of 10 percent, excluding third party advertising signs and SEMBs.

### *Appeals*

Exceptions denied by the Designated Official and all other request for exceptions to the by-law will be heard by the Appeals Committee, except for requests that can only be addressed through the amendment process including;

- prohibited signs
- signs not expressly identified in the by-law
- static electronic message boards, other than on a ground sign
- increases of total sign face area or height for a third party advertising sign

### *Amendments*

Requests to consider changes to the by-law that cannot be dealt with through an exception or appeal process must be considered as a site specific and sign specific modification to the by-law. Applications for an amendment will be submitted to the Designated Official who will prepare a recommendation report to be brought forward to the appropriate Committee of Council for decision.

Notification and as-built confirmation

In order to streamline the inspection process and ensure signs are installed in accordance with approved drawings, it is proposed that applicants provide notification of installation and supply as-built confirmation of sign installation. This process will allow staff to more efficiently monitor permit installation processes by knowing when an installation is complete. In addition, as-built drawings will provide an added level of safety for residents and allow staff to ensure signs have been installed as approved.

Enforcement

Enforcement processes have been updated and streamlined by including orders and administrative fees, similar to those used in the lot maintenance by-law. A \$100 fee will be charged for second and subsequent orders issued to the same property, when there has been no change in property ownership.

The administrative penalty process has also been included in the proposed by-law as an enforcement option. Administrative penalties provide for quicker resolution of fines and keep the dispute resolution local for ease of customer access, while providing an online payment option.

*Signs on Town property*

In cases where a sign owner has received a fine that remains unpaid or the sign owner has not arranged for a review of the penalty by a Screening or Hearings Officer, the sign owner will no longer be permitted to display signs on Town property and any signs displayed on Town property prior to the payment or booking of a screening or hearing may be seized and not returned without payment of the retrieval or administrative fees.

Illumination Measurement

The proposed by-law has included nits as its illumination measurement standard. Nits are a unit of measurement of luminance, or the intensity of visible light, and used to describe the brightness of electronic displays (ie. LCD and CRT monitors) and other illuminated sign faces, whether internally or externally illuminated.

Technology in the form of a nit gun will allow staff to respond to residents' concerns quickly and efficiently by simplifying the measurement process. Nit measurements are taken from the source; this eliminates the need to establish measurements above those of the ambient light from other sources. Staff will take a measurement and clearly identify if the sign is in compliance, thus improving the process for both complainants and businesses.

A municipal scan was performed identifying that the City of Toronto, City of Barrie and City of London use nit measurements in sign by-law regulations. Staff met with representatives from the City of Toronto Sign By-law Unit, and confirmed that nit measurements and the nit gun have been used successfully for inspection and enforcement purposes.

#### Sign permit fees

A review of sign fees was conducted to determine the fees necessary to achieve full cost recovery for the sign program. These fees are included in Appendix A to this report.

#### Advertising signs

Advertising signs have commonly been described as “third-party signs.” They are distinguished from signs that business owners might erect directly themselves, identifying their businesses and advertising goods and services available on-site (often referred to as “first-party signs”). The sign by-law provides that an “advertising sign” can be a ground sign (i.e., a billboard) or a mobile sign. In previous court decisions, it has been conclusively determined that the town could impose limitations on the maximum size of billboards and that the specific maximum size determined by the town was consistently valid.

The Town’s designated employment areas represent the industrial “character” areas, which have historically served as an appropriate objective measure in reviewing possible locations for advertising signs. A comprehensive review of the locational criteria for advertising signs was undertaken in 2009. As a result of the growth and change that has taken place in the Town over the past decade, staff considered whether the advertising sign regulations should be updated and sought public input. No comments were received through the public consultation process. It continues to be the opinion of staff that there is no reason or need, as part of the balancing exercise, to expand the scope of candidate sites for third-party advertising signs beyond the Town’s existing employment areas. In order to manage the objectives of minimizing visual clutter, and maximizing public safety, area character, streetscape compatibility, and appropriate balance with the priority intended for on-site first-party signs, the existing advertising sign regulations remain appropriate and balance competing interests, particularly given the significantly different urban context and higher sense of aesthetic that have been recognized in previous court decisions concerning the Town’s sign by-laws.

Some of the key third party advertising sign regulations include:

- a maximum of 70 signs are permitted within the Town (35 ground signs and 35 mobile signs)
- signs may be located on property designated employment (but does not

- include any property North of Dundas Street)
- signs not be located within a radius of 300.0m of any other third party advertising sign
- signs may not be located within 200.0 m of:
  - a residential area or property legally used for residential purposes
  - a school or park
  - a designated under Part IV or Part V of the *Ontario Heritage Act*
  - a 400 series highway
  - advertising signs may not be located any closer to any property line, other than a road allowance, than a minimum of 1.5m

#### Companion materials and technologies upon by-law approval

To assist users with understanding terms and sign types identified in the by-law an online illustrated glossary that depicts images of the various sign types will be available on the Town's website. Other supporting companion online materials include;

- A guide describing the following application processes – permits, exceptions, appeals and amendments;
- An interactive GIS mapping tool for users to obtain information, such as the land use designation for their specific site(s), with the possibility to link additional information in the future;
- An enhanced GIS map layer for identifying approved locations and permits for community mobile signs on town property and locations for mobile signs on private property.

### **CONSIDERATIONS:**

#### **(A) PUBLIC**

Public consultation was held from July 2017 to March 2018. During this period, residents were asked to participate in the following:

- Sign by-law public questionnaire (July-September 2017)
- Sign by-law public open house (October 2017)
- Consultation with a focus group (May, June and November 2017)
- Consultation with the developer and builder liaison group (March 1 & 7 2018)
- Comments were received through [enforcementservices@oakville.ca](mailto:enforcementservices@oakville.ca) and [signreview@oakville.ca](mailto:signreview@oakville.ca) throughout the period
- Sign by-law public open house (August 2018)
- Consultation with focus group (October 2018)

Public notice of the by-law has been published in the Oakville Beaver, sent to residents who requested notification and posted on the town website in accordance with the public engagement policy and guidelines.



**(B) FINANCIAL**

Proposed sign fees necessary to achieve full cost recovery are included in Appendix A to this report.

**(C) IMPACT ON OTHER DEPARTMENTS & USERS**

Multiple departments including Clerk's, Building, Development Engineering, Engineering and Construction, Legal, Municipal Enforcement and Planning have been involved in the review process.

**(D) CORPORATE AND/OR DEPARTMENT STRATEGIC GOALS**

This report addresses the corporate strategic goal to:

- enhance our economic environment
- continuously improve our programs and services
- provide outstanding service to our residents and businesses
- be accountable in everything we do
- be the most livable town in Canada

**(E) COMMUNITY SUSTAINABILITY**

Updated sign by-law regulations affect the economic, cultural and social pillars of sustainability. Allowing reasonable advertising opportunities, without negatively affecting residents or community character, can assist local business.

**APPENDICES:**

Appendix A – Fee Schedule

Appendix B – OMDREB report

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