



SUBJECT: Election Sign By-law

TO: Corporate Services, Strategy, Risk & Accountability Cttee.

FROM: Office of the City Clerk

Report Number: CL-04-22

Wards Affected: All

File Numbers: 110-04-1

Date to Committee: February 2, 2022

Date to Council: February 15, 2022

Recommendation:

Enact a by-law to regulate election signs in the City of Burlington and repeal By-law 18-2018, attached as appendix B to office of the city clerk report CL-04-22; and

Enact a by-law to amend By-law 034-2007, as amended, being the Sign and Advertising By-law to delete references to election signs, attached as appendix C to office of the city clerk report CL-04-22.

PURPOSE:

Vision to Focus Alignment:

- Building more citizen engagement, community health and culture

Background and Discussion:

In April 2018 staff provided report [PB-19-18](#) to the Planning and Development Committee introducing a new by-law to regulate Election Signs. The By-law was written in response to changes to the *Municipal Elections Act, 1996, S.O. 1996, c. 32 (MEA)*-through Bill 181, the *Municipal Elections Modernization Act 2016, S.O. 2016, c. 15*. One fundamental change as outlined in the report was the addition of third-party advertisers.

Report PB-19-18 recommended that Council enact a stand-alone Election Sign By-Law, (attached as appendix A) to provide ease of access and clarity on election signage for

candidates, their campaign teams and third party advertisers for municipal, provincial, and federal elections.

As part of the election preparedness program, staff are conducting a review of the 2018 general election and are slated to review all election related policies. A survey was issued on all aspects of the municipal election, to allow for public input. The survey included the Election Sign By-law. The survey results were presented to Committee by way of report [CL-21-21](#) at CSSRA on July 5, 2021, and is discussed in greater detail in the Engagement Matters section to this report.

Due to the amount of changes, it is recommended that By-law 18-2018 be repealed and replaced with the proposed by-law attached as appendix B to this report. The draft by-law before committee has been reviewed by key staff in By-law Enforcement, Legal Services, and the Office of the City Clerk. In addition, staff are also recommending that Council approve an amendment to the Sign By-law (034-2007) to remove the election sign definition, and another election sign references as there is currently duplication, and this may cause confusion.

Proposed Changes to the By-law

Definitions have been inserted for campaign headquarters and registered third party advertiser to be applicable to all levels of government. Staff are proposing to make a change to the definition of election sign to include signs in opposition to a candidate or party.

The vehicle election sign definition has been removed. Based on review there are no other provisions within the City of Burlington by-laws regulating vehicles wraps or signs placed on or in vehicles. Therefore, removing vehicle regulations will align the Election Sign By-law with the City of Burlington regulatory landscape. In addition, staff recommend removing the previous section 3.4 which requires a vehicle with a wrap or sign to be registered. Upon review, staff were made aware that the City of Burlington did not have appropriate administrative clearance to look up license plates through the Ministry of Transportation to issue tickets. Staff recommend that Council support the approach that vehicle wraps are considered advertisements and not applicable to this by-law.

The placement of signs and safety has been augmented through the proposed by-law. Sections have been included that address safety for pedestrians and vehicular traffic which includes protecting warning devices and traffic signals, and discourages the placement of signs that are in a state of repair that may be deemed unsafe or unsightly or that impede city maintenance or operations.

In addition to a new definition for third party advertisers, staff are recommending a clause that stipulates that third-party advertisers be registered with the Office of the City

Clerk before signs are placed (applies to federal and provincial elections). In addition, third party advertising signs are required to display contact information, and this will link back to a list of registered third parties kept by the Office of the City Clerk.

In terms of timing for the placement of signs, staff are recommending keeping the timing of when signs can be placed as is. Keeping the provision of 45 days prior to Voting Day (September 9, 2022) will allow municipal candidates additional time after nominations close to organize their signs and will afford greater equity amongst candidates and campaign teams. Staff are recommending increasing the days after an election has occurred to remove signs from three to four days (October 28, 2022). In recommending this change, staff took into consideration that most campaigns rely on coordinating volunteers and that an extra day may assist in removal of all signs and compliance with the by-law.

Election Signs are prohibited on properties used as voting locations when in person voting at that location is being conducted. In context of the current By-law this was further refined as it could have been interpreted to mean any voting location, throughout the entire previous (three week) advance voting period. In addition to the by-law, in person voting has additional protections against voter influence through section 48 of the MEA which states:

- 48 (1) While an elector is in a voting place, no person shall attempt, directly or indirectly, to influence how the elector votes. 1996, c. 32, Sched., s. 48 (1).
- (2) Without limiting the generality of subsection (1), no person shall display a candidate's election campaign material or literature in a voting place. 1996, c. 32, Sched., s. 48 (2).
- (3) For the purpose of this section,
"voting place" includes any place in the immediate vicinity of the voting place designated by the clerk. 2002, c. 17, Sched. D, s. 18.

For the municipal election, voting place vicinity will mean the entire voting location property. Staff are not proposing implementing a distance prohibition, as this may cause confusion amongst candidates and the public and may include adjacent private property. Staff do not recommend infringing on private property rights to display an election sign. Staff will interpret that section 48 does mean that vehicles that are wrapped, have interior election signs or bumper stickers are not permitted on a voting location property during hours of in person voting.

Strategy/process

The Office of the City Clerk is currently reviewing existing policies and internal practices in advance of the upcoming general municipal. This review is to ensure that all policies

are up to date and that they properly reflect legislation, and best practice. In the upcoming months there will be several reports regarding elections presented to committee and Council for its consideration.

Options Considered

Following the 2018 municipal election, several Ontario municipalities have amended their election signs provisions. In review of this By-law staff have conducted a jurisdictional scan and review of these new election sign provisions and have made the appropriate adjustments. As the current City of Burlington By-law limits signs to private property, staff have tried to keep the proposed by-law and any changes as simple as possible.

In review of the By-law staff proposed making vehicle signs part of the proposed by-law with an alternate start date for when a vehicle wrap could be implemented. Based on a review of current City of Burlington regulations there are no other sign regulations involving vehicle signs, as they are considered an advertisement. Therefore, items related to vehicle signs were removed from the By-law.

In reviewing the By-law, it was considered to place a ban on all election signs in Burlington. This was considered based on environmental concerns, and the perception of some survey respondents that election signs are a nuisance. Election signs are considered part of freedom of expression, by way of the Charter of Rights and Freedoms and therefore staff recommend striking a balance to keeping the current provisions, allowing election signs but to relegate them to private property.

Financial Matters:

There are no financial matters associated with the approval of the proposed by-law. There are administrative fees in place for signs removed by staff. These fees are nominal, in place to be a deterrent to poorly placed signs and are not fee-recovery in nature. Throughout the election period staff work proactively with candidates and their teams to provide information on the proper placement of signs. High compliance with election sign provisions is our goal, and will help to alleviate pressure on By-law Enforcement and the Office of the City Clerk resources during the election period.

Total Financial Impact

Not applicable.

Source of Funding

Not applicable.

Other Resource Impacts

Not. Applicable.

Climate Implications

Most election signs are reused by candidates in between elections. While it is not mandatory to use signs, it is a primary way for candidates to get their names out to the public. Some candidates may choose to not use election signs.

Engagement Matters:

In Q2 2021 the Office of the City Clerk conducted a survey regarding municipal elections, and its associated election policies. The survey was open from March 31 to April 23, and the municipality promoted through various methods. When it closed approximately 300 residents had completed the survey.

When asked about the Election Sign By-law 61% of respondents indicated that the by-law was effective, commenting that the By-law was reasonable and enforceable, and that signage was generally handled well in during the 2018 election.

One of the major concerns that arose through this engagement was the communication on sign regulations. Staff will be working closely with Corporate Communications to develop a communications plan for the election, the election signs by-law and adherence to its regulations will form part that plan. Staff will also work directly with candidates and their teams to ensure that the contents of the proposed by-law are understood, with high compliance the goal.

Through the survey, concerns were raised about vehicle sign provisions being draconian in nature, staff have reviewed and are suggesting removing these provisions. Another concern was that signs were not taken down in a timely manner. Most election candidates use teams of volunteers, and staff are recommending one extra day, as it may help with compliance issues. After the election, staff will evaluate and make changes as part of an election review if required.

Conclusion:

The proposed changes to the Election Sign By-law are aimed to provide clarity and be responsive to what worked and did not work for the 2018 municipal election. Staff are recommending keeping the proposed by-law as a stand-alone by-law as it provides a central location for all election sign provisions for candidates and their campaign teams.

Additional amendments to the Sign by-law are also recommended to remove duplicate reference to election signs and to support clarity in the provisions.

Respectfully submitted,

Kevin Arjoon

City Clerk

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Appendices: (if none delete section)

- A. By-law 18-2018, the Election Sign By-law
- B. Proposed Election Sign By-law
- C. Amendments to Sign and Advertising By-law 34-2007

Report Approval:

All reports are reviewed and/or approved by Department Director, the Chief Financial Officer and the Executive Director of Legal Services & Corporation Counsel.