

City of Mississauga Corporate Report



11.1

Date: January 27, 2022

To: Chair and Members of General Committee

From: Andrew Whittemore, M.U.R.P., Commissioner of
Planning & Building

Originator's files:
CLE.LA.25-21-126

Meeting date:
February 9, 2022

Subject

Review of Sign By-law 54-2002 – Election Signs

Recommendation

1. That the proposed amendments to the City's Sign By-law 54-2002 outlined in the corporate report from the Commissioner of Planning and Building dated January 27, 2022 entitled "Review of Sign By-law 54-2002 – Election Signs" be approved.
2. That all necessary by-laws be enacted.

Executive Summary

- The Election Sign Section of Sign By-law 54-200 as amended has been reviewed and benchmarked with other municipalities.
- Various provisions have been identified and recommended to be updated.
- Proposed limitations on the number of elections displayed reducing proliferation.
- Increase fines penalizing those contravening the By-law and deter others.
- Provide direction regarding the storage and disposal of elections signs removed by city staff.

Background

Council requested a review of the Election Signs provisions in the Sign By-law (54-2002) prior to the upcoming 2022 Provincial and Municipal Elections.

Present Status

Sign By-law 54-2002 includes the following provisions regarding election signs:

The Sign By-law regulates Election Signs, both on private and public property, specifically, the location, size and timing for which signs are allowed to be installed. Election signs are not permitted to be displayed on public property. There are no limits to the amount of election signs permitted on residential and non-residential properties and there is no permit required to install election signs if they comply with Section 21 of the By-law (e.g. size, location, etc.). Any sign that deviates from the By-law is considered in violation.

The Sign By-law provides the City with authority to remove election signs on both public and private property. Presently, staff have concentrated on the removal of election signs from public property. Removing signs from private property results in trespassing complaints from residents despite the City having the authority to remove election signs from private property that are in contravention of the Sign By-law.

All election signs removed from public property are disposed of unless they are greater than 1.0m² (10 sq. ft.), in which case they are stored for 30 days by the City and destroyed if not reclaimed within this time. All signs stored are subject to a storage fee (\$20.00/ day or \$2.00/1.0m² of sign face) if retrieved. A removal fee of \$200.00 is required for the return of any election sign, which has been removed in violation of the By-law.

The By-law places the responsibility on the “candidate, or his agent, or any other person”, for compliance with the By-law related to election signs. Violators of the By-law who are charged are subject to prosecution. Laying charges for election signs has been relatively limited and typically directed to the most egregious violators of the By-law. Prosecution can be a lengthy process and fines are determined by the Court, which may not be that requested by the City

Enforcing the Sign By-law During Election Periods

Three divisions are responsible for implementing different aspects of the By-law as it relates to election signs, as generally described below:

Building Division: The Sign Unit is responsible for writing, administering and enforcing the By-law (including but not limited to, preparing amendments, proactive education, issuing charges). Upon the Writ dropping for federal and provincial elections, staff distribute an election sign fact sheet at all election returning office locations in Mississauga. With municipal elections, all candidates are provided an information package on election signs, and are required to acknowledge their understanding of the Sign By-law (Appendix 1).

Sign Unit staff are not advised of the infractions of the Sign By-law observed by Works Operations and Maintenance staff. Before laying charges, Building staff must investigate, compile evidence for the case and if there is sufficient, evidence lay charges. If charges are laid, the candidate may be served with a summons to appear in court.

Works Operations and Maintenance Division: Responsible for the removal of illegally placed signs in accordance with the requirements of the By-law, as well as providing documentation in support of charges related to violations of the By-law. During election campaigns, all road maintenance crews in four Works Operations Yards join forces with all traffic regulatory maintenance crews in the Signs and Pavement Markings Unit to conduct a two-day, City-wide illegal sign blitz removal. Additionally, throughout election campaigns, six Works Operations and Maintenance crews are dedicated to illegal sign removal (two crews from the Signs and Pavement Markings Unit and one crew from each of the four Works Yards).

Works Operations and Maintenance also partners with the Parks, Forestry and Environment Division to assign four additional crews dedicated to illegal sign removal (a total of 10 crews comprising two staff and one truck each).

Legal Services Division: Responsible for prosecuting By-law charges. During election periods, prosecution is initiated when enforcement staff in the Building Division Sign Unit lay charges. When a charge is laid the person charged may be served with a summons to appear in court. Out of court, payment is not an option when charges are laid by way of an Information and summons. It is not uncommon to have multiple court appearances before a trial date is set to allow a person charged their right to obtain disclosure and legal representation. Typically, a trial date is set between 6 to 8 months from the date charges are laid. The Prosecutor requests fine amounts to the Court, however the Court decides the fine based on the submissions of both the Prosecutor and the person charged.

Comments

The following items were considered during the review of the Sign By-law related to Election signs.

A Complete Ban on Election Signs

The Municipal Act authorizes a municipality to regulate signs displayed within their municipality, including election signs, but regulation must be done as not to impede the Canadian Charter of Rights and Freedom. Based on benchmarking of other municipal sign by-laws, Staff are not aware of any municipalities that ban election signs (Appendix 2).

Election Sign Removal & Storage

Based on benchmarking conducted of other municipal sign by-laws, it is common practice for municipalities to store election signs removed from private and public property for at least 30 days before destroying the signs.

Currently the Sign By-law permits the immediate destruction of elections signs removed in contravention of this By-law that 1.0m² (10 ft²) or less. In reviewing this provision with Legal Services, it is recommended that all election signs removed, regardless of size, should be stored for a period of 30 days before being destroyed.

Regulating the Number of Signs

Regulating the aesthetics of signs (i.e. size, location, number etc.) is within the Municipality's authority. It is not uncommon to see multiple signs for the same candidate displayed on a property during an election campaign.

To address the proliferation during campaign periods, it is recommended to limit the number of signs displayed on a residential property with a single dwelling unit (e.g. detached, semi-detached, townhouse) to one per candidate per street frontage. A number of municipalities limit the number of election signs permitted on private property including Brampton, Caledon, Markham and Aurora. This limitation will not apply to properties having greater than one dwelling unit or non-residential zoned properties. According to the *Municipal Elections Act*, a person cannot prohibit a person living in a condominium or multi-residential dwelling from displaying signs in relation to an election on the premises where they reside.

Regulating Election Sign Size

The size of election signs is currently regulated in the Sign By-law. The maximum size currently permitted for election signs is 1.5 m² (16 ft²) which is consistent with other municipalities.

Window Signs

Candidates running in elections often display numerous signs or graphics on the windows of campaign offices. The Sign By-law currently includes a provision that window signs cannot exceed 25% of the window area or group of windows. Candidates are advised of this provision or a Notice of Contraventions will be issued to the candidate by staff when warranted. Although the Sign By-law presently regulates these signs on a general basis, staff recommend an amendment to explicitly regulate elections signs in windows.

Enforcement

Three divisions; Building, Works Operations and Maintenance, and Legal Services, are responsible for enforcing different aspects of the By-law as it relates to election signs. To support successfully charging and prosecuting violators, Works Operations and Maintenance Division staff are now required to take photographs of offending signs clearly showing its location on the boulevard (i.e. best shown between the curb and sidewalk as beyond the sidewalk it is difficult to demonstrate non-compliance absent survey/boulevard plans showing the property line demarking the public right of way) and creating work orders to include as evidence. This documentation would be forwarded to the Building Sign Unit to assist with preparing the information and laying charges. The attending Works Operations and Maintenance staff person would serve as a witness for prosecutions. According to the Municipal Act, a municipality can establish a system of fines for Part III Offences (e.g. the laying of information). To further strengthen the penalty portion of the Sign By-law, it is proposed to establish a minimum (\$500) and maximum fine (\$100,000) for all Sign By-law contraventions. In addition, staff will explore the feasibility of using the Administrative Penalties System (APS) to penalize violators. If eligible, this would create a more streamlined approach, similar to what has been done to use the APS for other by-law infractions.

Financial Impact

There are no financial impacts associated with the Recommendations in this report. Any necessary costs will be from approved operating budgets.

Conclusion

In summary, it is recommended that the City's Sign By-law 54-2002 be amended to:

- Limit the number of election signs permitted to be erected, affixed or displayed on residential zoned properties containing a single dwelling unit to one election sign per candidate per street frontage.
- Establish a minimum fine of \$500 and a maximum fine of \$100,000 for all contraventions of the Sign By-law, including elections signs where the person is charged by the laying of an information under Part 3 of the Provincial Offences Act.
- To explicitly permit a person to erect, affix or display an election sign in front of or on the inside of the window of a campaign headquarters so long as it does not exceed 25% of the window area.
- Amend the enforcement powers to no longer permit the immediate destruction of elections signs that are 1.0m² (10.0 sq. ft.) in size or less and instead require the City to store any election signs removed from private and public property that are in contravention of the Sign By-law for at least 30 days and permit the City to destroy any signs if they are not claimed within that time.

Attachments

Appendix 1: Information Package Distributed to Candidates (including By-law requirements)

Appendix 2: Benchmarking – Neighbouring Municipalities



Andrew Whittemore, M.U.R.P., Commissioner of Planning & Building

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