



TO: GENERAL COMMITTEE

SUBJECT: ELECTION SIGN BY-LAW 2006-105 REVIEW

WARD: ALL

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SUBMITTED BY: W. COOKE, ACTING CITY CLERK/DIRECTOR OF LEGISLATIVE AND COURT SERVICES

GENERAL MANAGER APPROVAL: D. MCALPINE, GENERAL MANAGER OF COMMUNITY AND CORPORATE SERVICES

CHIEF ADMINISTRATIVE OFFICER APPROVAL: M. PROWSE, CHIEF ADMINISTRATIVE OFFICER

RECOMMENDED MOTION

1. That the Election Sign By-law 2006-105 be amended to:
 - a) Update authorities due to provincial legislative amendments;
 - b) Include third party advertising provisions to address Provincial legislative changes;
 - c) Address administrative amendments to various sections related to headings and numbering as is deemed necessary; and
 - d) Increase cost recovery potential by implementing a permit process for the use of election signs during the campaign period and eliminating the waiving of fees for election signs found in violation due to an affidavit.
2. That the Fees By-law be amended to reflect cost recovery associated with the Election Sign By-law violations as well as the new permit processes for Election campaign signs, as set out in Appendix "A" to Staff Report LCS001-18.

PURPOSE & BACKGROUND

Report Overview

3. The purpose of this Staff Report is to review opportunities to make amendments for clarification of various sections, incorporate legislative changes at the Provincial level, enhance enforcement procedures and reflect cost recovery associated with the election sign by-law processes and violations. The Staff Report addresses the implementation of legislative changes from higher levels of government while enacting provisions to deal with concerns of residents related to signage as a whole and clarifying definitions of various sections to reduce ambiguity within the community. The proposed changes are anticipated to clarify the by-law provisions to enhance the ability of Officers to enforce the Election Sign By-law in an efficient manner.
4. Cost recovery for the enforcement of the Election Sign By-law has also been reviewed and proposed changes should assist in managing enforcement costs while allowing for opportunities to campaign in a manner that is in keeping with public expectations

Background

5. Through the 2017 business plan motion (17-G-024 as amended), Council directed as follows:
 - “20. “That staff in the Legislative and Court Services Department review opportunities to enhance enforcement and increase cost recovery associated with illegal signs and property standards violations including but not limited to implementation of a sign permit fee system and report back to General Committee”.
6. The purpose of this report is specifically to address the recent legislative changes to the *Municipal Elections Act* including election sign provisions regarding third party advertising in the Act as well as the cost recovery item identified in 17-G-024. A separate report is being presented regarding the general Sign By-law. A separate report has previously been presented regarding potential changes to the Property Standards By-law and the cost recovery associated with its enforcement.
7. Enforcement of the Election Sign By-law is essential to manage the City’s objectives of dealing with visual clutter/litter, ensure public safety and preserve Barrie’s exceptional character. When campaign advertising is not controlled and kept to a minimum standard, the community as a whole suffers.
8. The Election Sign By-law 2006-105 prescribes standards and restrictions for the placement and maintenance of signs on public and private property within the City of Barrie, as well as permitted numbers of signs on a property, sizes and styles acceptable.
9. A full copy of the by-law is available from the Legislative and Court Services Department or on the City’s website. The following is a summary of the City of Barrie’s election sign by-law.

General Provisions

No candidate or his agent or any other person shall affix, erect or otherwise display an election sign on public property including a City park, boulevard, utility pole, light standard, or facility that is owned or operated by the City.

Prohibits signs

- which include electronic display that incorporates in any manner any flashing or moving illumination;
- on any official sign or official sign structure;
- that obstruct the vision of drivers or pedestrians, or obstruct or detract from the visibility or effectiveness of any traffic sign or control device on public streets and roads
- that are located in a sight triangle;
- which make use of words such as “STOP”, “LOOK”, “ONE WAY”, “DANGER”, “YIELD”, etc.;
- on a tree, stone or other natural object;
- at a voting place;
- on or within a vehicle parked within 50 metres of a voting place;
- In a location where the election sign: obstructs or impedes any required fire escape, fire exit, door, window etc., or where it prevent or impede access of firefighters to any part of a building; constitutes a danger or hazard to the general public.

The candidate to whom the election sign relates shall be responsible for the erection, maintenance or display of the election sign and shall ensure that all the requirements of this By-law have been met.

No person shall pull down or remove a lawfully erected election sign on private property without the consent of the candidate to the sign relates or the owner of the property on which the sign is erected.

No person shall deface or wilfully cause damage to a lawfully erected election sign.

No person shall place an election sign in such a position that such sign would contravene any other applicable legislation.

No person shall display on any election sign a logo, trademark or official mark, in whole or in part, owned or licensed by the City.

Election Signs on Private Property

Election signs may be erected or displayed on private property if:

- The signs are no larger than 1.22 metres by 1.22 metres (4 feet by 4 feet) and the sign height is no higher than two metres (6.56 feet) above ground level, save and except signs on campaign offices, billboards and signs displayed indoors;
- The signs do not interfere with the safe operation of vehicular traffic or with the safety of pedestrians; and
- The signs are erected with the consent of the owner or tenant of the property.

No more than two (2) election signs per candidate are permitted on any one piece of land zoned residential.

No more than three (3) election signs per candidate are permitted on any one piece of land zoned other than residential.

An election sign may be displayed on an illuminated billboard or mobile sign provided that each billboard structure or mobile sign has been installed under the authority of a permit issued under the applicable City of Barrie by-law.

The use of any otherwise approved sign structure is governed by the City of Barrie's Sign By-law.

Timing

No candidate or his agent or any other person shall affix, erect or otherwise display an election sign or permit or cause an election sign to be erected, affixed, or otherwise displayed prior to forty-five (45) days immediately preceding the day of a municipal election.

Election signs may be erected on campaign offices up to 90 days prior to voting day provided that:

- In the case of a candidate for the position of Councillor or Trustee, that right shall extend to no more than one campaign office in the ward where the candidate is running for election;
- In the case of a candidate for the position of Mayor, that right shall extend to no more than (4) campaign offices.

An election sign shall be removed within ninety-six (96) hours (4 days) immediately following 11:59 p.m. of the day of the election.

Removal of unlawful election signs

Election signs displayed in contravention of By-law 2006-105 will be removed by City of Barrie Municipal Law Enforcement Officers or any other individual designated by the City Clerk, immediately without notice.

Unlawful signs that have been removed shall be stored by the City for a minimum of 30 days, during which time the owner of the sign or the owner's agent may retrieve the sign by:

- a) Paying any amounts owing to the City under this by-law; and
- b) Providing the City with a signed acknowledgement and release in a form acceptable to the City.

Any election sign that is stored by the City for more than thirty (30) days and not redeemed by the owner of the sign or his agent within that period of time, may be destroyed or otherwise disposed of by the City without notice and without compensation to the owner of the sign.

Costs for Removal and Storage of signs

If an election sign is removed, any candidate responsible shall, in addition to any fine or other penalty which may be imposed for an offence under this article, be required to pay to the City the cost of removing the sign. The candidate will be charged in accordance with the Fees by-law. The amounts may be recovered by legal action or in like manner as municipal taxes. Outstanding amounts will be applied to a candidate's tax roll

10. The *Municipal Act 2001, c.25*, as amended, provides that a municipality may pass by-laws in the interest of the health, safety and well-being of its residents. While the *Municipal Elections Act* includes specific provisions related to campaign advertising.
11. Historically, the City of Barrie has regulated the use of signs and other advertising devices within the municipality. Staff have removed thousands of illegally placed signs and assessed fees to the owners where known when violations have been noted. Service fees and permit fees for all forms of signage, have assisted to offset the cost of enforcement but have represented, on average, less than 30% of the total cost of enforcement including corporate overhead.

ANALYSIS

12. The review of the Election Sign By-law was to implement recent legislative changes at the Provincial level as well as enhance enforcement opportunities and review cost recovery processes.
13. During this review process, staff studied other municipalities by-laws regarding the enforcement of various sign standards including the cities of London, Kingston, Hamilton, Mississauga, Toronto, Milton, Caledon, Vaughan, Richmond Hill, Guelph, Wellington, Sudbury and St. Catharines.
14. The review of comparator municipalities by-laws showed that although the by-laws were structured differently they were relatively similar in nature. The use of service fees and permit fees varied with some municipalities collecting only monies spent by the municipality to enforce compliance while other municipalities collected permit fees or deposits to offset possible enforcement activities.

15. A general sign survey was conducted whereby both members of the public and the sign industry were asked various questions so that staff could obtain their opinion on types of signs that they believe are acceptable, duration of time the signs should remain, if the advertising caused an individual to change a business activity and what locations are acceptable.
16. The comments of the general sign survey are summarized below as portions would be applicable to the Election Sign By-law:

Public Comments	<ul style="list-style-type: none"> • Generally do not like the amount of signage throughout the City • Understand that signs are needed to identify various business locations and provide information • Want minimal signage for a short duration of time • Do not want or agree with any signage on City property • Signs should be spaced out further between signs • Interfere with visual site lines 	<ul style="list-style-type: none"> • Ground Signs are acceptable • Mobile Signs for short duration • No temporary signs should be permitted • Does not cause them to attend a business where they normally would not
Industry / Business Comments	<ul style="list-style-type: none"> • Would like increased abilities to use various types of signs • Signage should be permitted for a longer period of time • State it is critical for business success • Barrie does not have a sign problem 	<ul style="list-style-type: none"> • All types of signs should be permitted • Want longer duration for temporary signs • Want increased number of signs permitted per property

Election Sign By-law 2006-105 Review

Overview

17. The Election Sign By-law is passed and enforced under the authority of the *Municipal Act* and incorporates provisions set out in the *Municipal Elections Act*. This by-law was designed to regulate the use of Election signs leading up to and during an election, including the location, size and number of signs permitted as well as a prohibition of such signs on municipal lands.
18. Candidates in a municipal election are provided with a copy of the City of Barrie's Election Sign By-law and examples of where signs may be located as part of their nomination package. These candidates are required to sign a form acknowledging receipt of the Election Sign By-law, agreeing to abide by any applicable legislation and by-laws and acknowledging that election signs may be removed without notice. Copies of the Election Sign By-law are provided to Provincial and Federal candidates as City staff become aware of their candidacy.

Changes to Provincial Legislation – Election Campaign Advertisements and Third Party Advertisers

19. On April 1, 2018, the recent amendments to the *Municipal Elections Act* related to election campaign advertising come into force and effect. As the City currently has a by-law which regulates Election signs it is necessary to amend the by-law to update and/or clarify definitions and wording within the by-law to align with the new legislation.

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20. These including a new definition of “election campaign advertisement”. Under the Provincial legislation an election campaign advertisement means an advertisement in any broadcast, print, electronic or other medium that has the purpose of promoting or supporting the election of a candidate. It will be mandatory for an election campaign advertisement purchased by or under the direction of a candidate to identify the candidate.
21. The changes will also provide for registered third party entities to advertise for an electoral candidate during the restricted period (May 1, 2018 to October 19, 2018).
22. In accordance with the amended *Municipal Elections Act*, Registered Third Party campaign supporters are defined as:
- “**Registered Third Party** means any person or entity, including but not limited to a corporation or trade union whom is not a registered candidate, political party or constituency association who incurs expenses with respect to:
- i) a question, law or by-law submitted to the electors;
 - ii) an issue associated with a person or political participating in an election or;
 - iii) a candidate or political party participating in an election under the Canada Elections Act, the Elections Act or the Municipal Elections Act.”
23. The changes to the Municipal Elections Act will prohibit a third party advertisement to appear during the restricted period unless the advertisement contains the following information:
- a) The name of the registered third party.
 - b) The municipality where the registered third party is registered.
 - c) A telephone number, mailing address or email address at which the registered third party may be contacted regarding the advertisement
24. The City of Barrie Election Sign By-law is proposed to be amended to incorporate the definition of a Registered Third Party and the Provincial requirements concerning election campaign advertisements related to election signs. Within the changes to the *Municipal Elections Act*, election campaign advertisements include a variety of types of media, not just the use of signage. The proposed amendments to this by-law only relate to the use of election signs within the City.
25. The other types of media would be regulated by the Provincial legislation which permits the municipality to require a person who the municipality reasonably believes contravened the legislation, or the owner or occupier of the land on which the contravention occurred, to remove the advertisement or discontinue the advertising.

Election Sign Permit System

26. The review of comparator municipalities by-laws identified that many have a permit process and fee or security deposit for electoral candidates. A permit process allows the municipality to regulate location, size, setbacks, safety, provides contact information for the candidate and the ability to have the sign(s) maintained and/or removed by revocation of the permit. A security deposit system typically requires a candidate to provide at the time of submission of his or her nomination, a deposit that will be drawn upon if signs are found in violation of the applicable by-law. From discussions with municipal staff with security deposit systems, they have noted that the deposit system can be burdensome from an administrative perspective and does not necessarily assist in managing the number of signs found in violation.

27. Although many municipal staff identified challenges with election sign enforcement and administration, Vaughan staff have indicated that their sign permit system has been effective at managing sign placement, enforcement and administration. As a result, it is proposed that a new permit process be implemented.
28. Candidates and third party advertisers wishing to campaign using signs would be required to pay a permit fee of \$100. The by-law provisions related to the location (including a prohibition on placing signs on municipal property) would still apply under the permit process, as well as the size, setbacks, and timing provisions.
29. Staff are proposing that the initial permit fee would (if necessary), provide for the confiscation of a maximum of 10 election signs (one time only) found in violation at no additional cost. Should more than 10 signs be found in violation at any time during the election campaign or signs confiscated outside of a permitted timeframe, the regular fees set out in the Fees By-law would be applied.
30. This provision is intended to address situations where signs are moved inadvertently to a place that is in violation of the by-law by property owners or tenants, while addressing cost recovery. The 10 sign maximum is intended to be an incentive to ensure that candidates adhere to and inform property owners and tenants of the Election Sign By-law requirements. The current option to provide an affidavit would be eliminated under the permit system.
31. If a candidate or third party indicated that they did not intend to utilize signs as part of their campaign, the sign permit fee would not be assessed. If the candidate or third party determined at a later time that they had changed their mind, they could pay the fee at a later date, as long as election signs had not been discovered in violation.
32. However, if a candidate or third party advertiser had indicated that they were not intending to utilize election signs and election signs were found in violation of the by-law, the candidate or third party would be assigned the applicable fees for any signs found in violation in addition to the sign permit fee.
33. A permit process and fees for election signs would provide the municipality with the means to better control the placement of the signs for safety of citizens and collect fees to offset the cost of enforcement. Given the relatively small number of candidates in any election, a permit process could be administered manually without the requirement for additional staffing.

Proposed Enhanced Regulations

34. The by-law is proposed to be amended to address various items such as those listed above and below. In addition staff are proposing to update and/or clarify definitions and wording within the by-law as well as enhanced wording in various sections to align with other sections of the by-law or other City by-laws. This will assist in enforcement procedures while setting clear expectations to electoral candidates and their supporters.
35. Amongst the proposed amendments, staff are recommending to clarify, for example the use of vehicles or trailers as signage at or within 50 metres of a voting location, the implementation of a permit system and the regulation of registered third party advertisers.

Fees

36. Currently, upon receiving a complaint or noting a violation while on patrol related to any election sign posted on municipal lands or otherwise in contravention of the By-law, an officer will attend the property and remove the sign(s). The by-law does not require a warning to be provided to the candidate prior to the removal of the sign. Subsequently, a Notice is sent to the owner/apparent owner of the sign advising of the removal and the fee(s) due.
37. Fees associated to the removal, storage and destruction of illegally placed election signs were developed to work toward full cost recovery. The fees have been included within the Fees By-law and are reviewed annually. The current fee amount represents approximately 21% cost recovery for individual signs. Cost recovery is higher when multiple signs from the same candidate are found in violation within 100m of another sign and on same side of street. Currently the By-law allows for candidates to complete an affidavit stating they were not responsible for the placement of the signs which allows for the waiving of all applicable enforcement fees. This option is not provided for any other type of signage regulated by the City of Barrie.
38. If an affidavit is provided, staff would be required to present the evidence to dispute the statements made by the candidate. Due to the fact that staff are not typically present during the installation of such signs, staff typically have no choice but to waive the fees associated with the removal of the sign as they lack the necessary evidence to dispute the statements. Staff believe that in some cases, the use of this affidavit is being abused but without witnessing the actual sign being erected they are not able to disprove the claims.
39. Although the by-law provides the option of the affidavit, it does state that the candidate be responsible for the placement and use of all signs associated with their campaign regardless of who may have erected the sign on their behalf. This standard of responsibility for signs is also in place for business owners and event organizers throughout the community. Those business owners or event organizers do not have the ability to swear out an affidavit claiming the signs were not placed by them, therefore they are currently held to a higher level of enforcement standard for the placement of the sign regardless of who may have erected the sign on their behalf.
40. The use of the affidavit by many candidates has resulted in thousands of dollars being waived in enforcement fees when signs have been found illegally placed, resulting in no cost recovery related to the cost of removal, storage and ultimately disposal of the signs. That cost continues to be borne by the general tax payer.
41. Below is a summary of Election Signs confiscated by enforcement staff between 2010 and 2016, both for the municipal elections and two (2) by-elections held during that time. On each occasion, affidavits were sworn and reduced or no fees were collected.

Election Event	No. of Signs Collected	Fee Charged Per Sign*	Amount Invoiced	Fees Collected
2010 Municipal Election	307	\$10.00	\$3,070.00	\$ 2090.00 (\$980.00 waived)
2012 By-Election	60	\$10.00	\$ 600.00	\$ 380.00 (\$ 220.00 waived)
2014 Municipal Election	62	\$10.00	\$620.00	\$ 600.00 (\$ 20.00 waived)
2016 By-Election	240	\$52.00	\$12,480.00	\$ 0.00 (All waived)

* Note: The fee charged per sign and amount invoiced does not represent full cost recovery.

42. A new fee for multiple signs from the same candidate found in violation within 100m of another sign from the candidate and on same side of street is proposed to address situations when more than one sign is collected in a limited area requiring less enforcement resources than intermittent signs. The addition of this new fee is intended to reduce the amount of complaints and associated staff time spent related to administering sign removal fees.
43. It is proposed that the Fees By-law be amended to add Election Sign Permit Fees and amended enforcement fees as set out in Appendix "A" attached.

ENVIRONMENTAL MATTERS

44. There are no environmental matters related to the recommendation.

ALTERNATIVES

45. The following alternatives are available for consideration by General Committee:

Alternative #1

General Committee could decide not to implement a permit system but could direct staff to amend the Election Sign By-law to eliminate the ability for a candidate to provide an affidavit that allows for the waiving of fees, incorporate the Provincial legislative changes in the *Municipal Elections Act* and enhanced provisions for clarity as well as the new fee for multiple signs from the same candidate found in violation within 100m of another sign from the candidate and on same side of street

This is a viable alternative. It hasn't been recommended as staff are of the opinion that a permit process for election signs would provide the municipality with the means to better control the placement of the signs for safety of citizens and enhance the collection fees to offset the cost of enforcement.

Alternative #2

General Committee could maintain the existing Election Sign By-law with respect to current regulations related to election signs, but incorporate all amendments relating to Provincial legislative changes in the *Municipal Elections Act*.

This alternative is not recommended as the number of violations and cost of enforcement continues to rise. Staff were directed to review opportunities to increase enforcement and cost recovery associated with sign by-laws. Candidate compliance with the Election Sign By-law has not improved substantially and a different approach to election signs is recommended. Staff are of the opinion that the current option of an affidavit to allow for the waiving of enforcement fees is being abused but do not have the necessary resources to address it. A permitting system is anticipated to increase the recovery of enforcement costs from electoral candidates.

Alternative #3

General Committee could maintain the existing Election Sign By-law provisions and fees.

This alternative is not recommended as the existing Election Sign By-law does not reflect the changes made to Provincial legislation or address the direction provided to staff to review opportunities to increase enforcement and cost recovery associated with sign by-laws.

FINANCIAL

46. The proposed addition of Election Sign permit process and associated fees would assist the City in moving towards full cost recovery. Although it is not known what this amount would be at this time as these provisions are new, research with the comparator municipalities has indicated that it is expected to represent an overall revenue increase, dependant on the number of candidates choosing to use signs.
47. It is anticipated that the proposed changes to the permit and enforcement fees in the Fees By-law could generate additional revenue that would offset the costs of enforcement, should the number of violations and response to violations, and electoral candidate use of campaign signs remain unchanged from previous elections. However, as a result of the addition of permit fees and the enhanced enforcement fee increase or other proposed changes to the by-law, the volume of violations and the use of campaign signs may vary.
48. Such revenues will continue to be utilized to offset the overall cost of enforcement of the By-law throughout the community.

LINKAGE TO 2014-2018 STRATEGIC PLAN

49. The recommendation(s) included in this Staff Report are not specifically related to the goals identified in the 2014-2018 Strategic Plan however through the enhanced provisions for the election sign permits and enhanced enforcement measures of this By-law it does relate to building a safer and more vibrant community and further work towards responsible cost management related to enforcement.



APPENDIX "A"

Proposed Permit Fees and Enforcement Fee Increases and Cost recovery

Fee Structure	Current Fee (2017)	Cost Recovery Amount	Proposed Fee (2018)	Difference of (\$)
Election Sign By-law				
Election Sign Permit NEW (Includes the removal of a maximum of 10 signs found in violation at no additional cost to candidate. Any additional signs removed will result in the application of election sign removal fees)		\$120.98	\$ 100.00	\$ 20.98
Election Sign removal fee (Single Sign) (with exception of subsection (a))	\$55.25	\$264.87	\$ 56.50	\$ 208.37
Election Sign removal fee NEW (subsection (a)), <i>Election sign removed within 100m of another sign from same candidate, same side of street to a maximum 10 signs per occurrence</i>		\$264.87 (max. 10 signs)	\$ 140.00 (max. 10 signs)	\$ 124.87