

Date: 2021-05-17

Subject: Impacts Associated with Illegal Election Signs – All Wards (C247-2019)

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Report Number: Planning, Bld & Ec Dev-2021-454

Recommendations:

1. That the report titled: Impacts Associated with Illegal Election Signs – All Wards (C247-2019), to the Committee of Council meeting of June 9, 2021, be received.

Overview:

- All signs, including election signs are regulated under the authority of the City's Sign By-law 399-2002, as amended.
- The volume of complaints requiring investigation into illegal election signs continues to grow. Illegal election signs include those that are placed on any public property or on private property without the consent of the owner; those that exceed the maximum size or number of signs permitted by the Sign By-law; and, those that continue to be displayed for more than 72 hours following an election.
- There may be opportunities for the City to alternatively regulate the display of election signs, while still offering candidates the ability to promote themselves and their platforms as well as providing residents and property owners with a means to visually display their support for election candidates.

Background:

On June 19, 2019, Council requested a cost and benefits analysis related to the potential banning of election campaign signs within the City of Brampton (Resolution C247-2019). In response to this direction, the information provided in this report includes the following:

- Review of the City's Sign By-law, as it relates to election campaign signage;
- Education and information provided to municipal candidates;
- The impact that enforcement of illegal election campaign signs has on staff resources;

- Implications associated with imposing a ban on election signs; and
- Options for regulating election campaign signs.

Provisions in the City's Sign By-law for Election Campaign Signage

The Sign By-law is intended to facilitate the orderly display of signage throughout the City and create a fair and level opportunity for advertisers to display messaging. It also aims to reduce visual clutter and provides a safeguard for pedestrians and motorists by restricting the placement of signs to appropriate locations so as not to interfere with sightlines at driveways and intersections, etc.

Election signs are permitted only on private property and are subject to the following additional requirements and restrictions:

1. For a municipal election (or by-election), signs may only be erected after 5:00 p.m. twenty-four (24) days prior to Election Day.
2. For a federal and provincial election, signs may only be erected after 5:00 p.m. on the date the Writ of Election is issued.
3. Signs shall not exceed 2 m² (21.5 ft²) in sign area.
4. Maximum of two election signs per candidate on any one residential property.
5. Maximum two election signs per third party advertiser on any one residential property.
6. Maximum three election signs per candidate on any one private property other than residential.
7. Maximum three election signs per third party advertiser on any one private property other than residential.
8. Consent shall be obtained from the owner of the property prior to the erection of the sign.
9. All signs shall be removed within 72 hours after the close of the election for which it was erected.

While the City's Sign By-law currently regulates the number, location, size and duration for the display of election signs, the by-law does not regulate the materials used in the production of signage, nor is there any requirement to obtain a permit or pay a fee for the display of election signs. The By-law also does not impose a cap on the total number of election signs than an individual candidate or registered third party advertiser may display throughout their riding or across the City.

A benchmarking exercise has been undertaken to compare restrictions set out in Brampton's By-law with other municipalities. A copy of the comparison chart is attached as **Appendix 1**. By comparison, the requirements and restrictions in Brampton's Sign By-law are similar to, and often more restrictive than, election sign requirements imposed by other municipalities.

Information Provided to Municipal Election Candidates

Municipal candidates receive information about the Sign By-law on the day they file their nomination form with the Clerk's Office. Each nominated candidate receives a Candidate Guide, which includes relevant information regarding policies and procedures that are specific to the City of Brampton. Requirements and Restrictions of the Sign By-law as it relates to the display of election signs is included within the guide as well as reference to the City's website with a link to the Consolidated Sign By-law. Similarly, third party advertisers who are registered with the Clerk's Office receive a Third Party Advertiser Guide, which includes the same information about the Sign By-law.

During the nomination and registration process for the last municipal election, staff reviewed the contents of the Guides with each nominated candidate and registered third party advertiser, and made note of the restrictions for election signs prescribed by the City's Sign By-law. A PDF copy of the Candidate Guide was posted to the Candidates' Portal, to ensure that all candidates had access to the material. In addition, a link to the Sign By-law was added to the Brampton Votes website. Throughout the campaign period, candidates were educated on the Sign By-law provisions, when they contacted the Election Office with questions.

In September 2018, the Election Office held a candidate information session, which was open to all election candidates and attended by 35 individuals. During the session, staff from Zoning & Sign By-law Services, and Enforcement and By-law Services spoke to the audience about the Sign By-law provisions. Following the session, the presentation material was emailed to all candidates, and posted to the Candidates' Portal.

Following the election, staff emailed all candidates with a reminder to remove all erected election signs by the deadline (before 8pm, 72 hours after the election).

Current Situation:

Violations of the Sign By-law Impacting Visual Clutter and Distraction

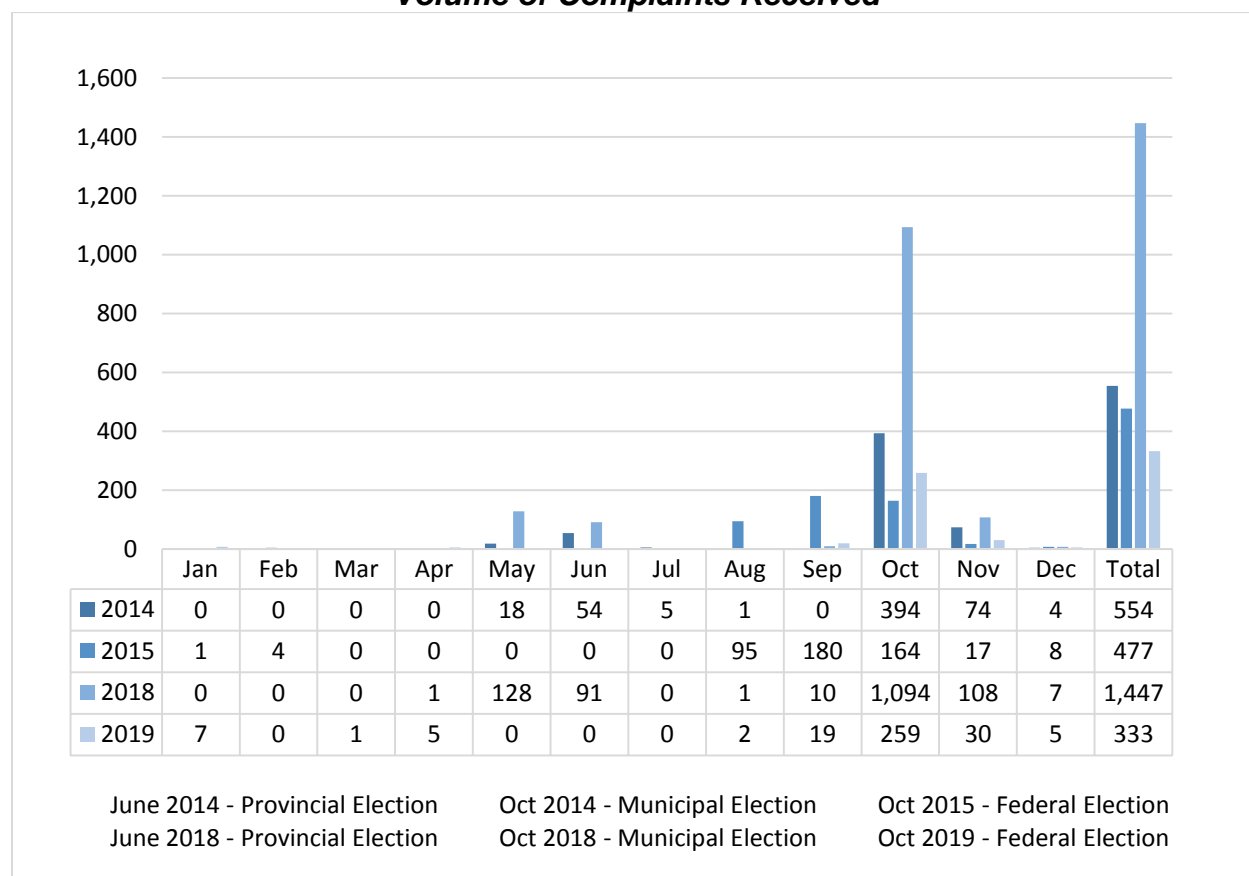
The election sign provisions in the Sign By-law are intended to permit and regulate the display of all election signs, including window signs, lawn signs, signs affixed to fencing, etc. The intent and purpose of regulating the placement of election signs, include minimizing visual clutter and driver distraction, promoting public safety and providing an equitable opportunity for the display of signage to all candidates and third party advertisers. While prescriptive restrictions have been in effect in the Sign By-law for many years, and despite candidate guides and education seminars offered through the City Clerk's Department, the volume of contraventions continues to grow.

Over the past many elections, including the 2018 and 2019 municipal, provincial and federal elections, Brampton's election sign regulations are consistently being contravened. The violation of the election sign regulations raise a number of concerns, in relation to visual clutter, driver distraction, visibility and public safety when located at intersections and/or near driveway access points. The images shown in **Appendix 2** are

illustrative of the current situation and represent commonly observed violations of the election sign provisions of the Sign By-law.

The volume of complaints regarding illegal election signs continues to grow. In 2018, there were 1,440 complaints, resulting in 1,167 charges laid associated with the municipal election. A large number of complaints pertained to signs that had been placed on public property, including boulevards and parkland. Other complaints were for excessive signage on residential and non-residential properties, billboards exceeding 2m² in sign area, signs placed on City fences or noise walls, and signs displayed for more than 72 hours after the close of the election.

Volume of Complaints Received



Challenges and Impacts on Enforcement:

Illegal signage also has an impact on municipal resources for enforcement and prosecution of offences. The average cost to the City of investigating and prosecuting an illegal municipal election sign is approximately \$125.00 to \$130.00 per sign from investigation to prosecution. This includes costs associated with the following:

- Initiating and conducting an investigation
- Collection of evidence, including notes and photographs
- Preparation for prosecution and court attendance

Challenges for Enforcement staff include determining whether signage was placed on the property with the consent of the owner, obtaining contact information for Federal and Provincial Candidates and allocating staff resources during election campaigns while continuing to maintain service levels for other areas of enforcement. Where staff are unable to identify a municipal address for election candidates that have erected signs illegally, the By-law becomes virtually unenforceable.

As a result of sign violations investigated by Enforcement Officers during the 2018 Municipal Election, whether proactively or in response to a complaint, Enforcement and By-law Services submitted 1,167 prosecution requests to Prosecution Services relating to illegal election signs.

Resulting from the 2018 Provincial Election, a total of 218 illegal election sign complaints were investigated and 400+ illegal election signs were seized. No charges were laid against Provincial election candidates, as personal information and/or addresses were unavailable and summonses could not be issued and served to the defendants.

By-law Enforcement Officers also investigated 298 election sign complaints in relation to the 2019 Federal Election.

During the 2018 election year, illegal election sign complaints accounted for approximately 22.9 percent of the total municipal complaints received by By-Law Enforcement. While investigations into illegal elections signs are occurring, Officers are unable to investigate other complaints or conduct proactive parking enforcement.

Legal Implications

Legal considerations are discussed in a separate (closed session) companion report.

Suggested Options/Alternatives to Banning Election Signs

In view of the potential Charter rights implications associated with imposing a ban on election campaign signs, staff have formulated the following options for consideration. These options are designed to reduce proliferation of signage throughout the City that cause visual clutter and driver distraction, mitigate the environmental impact of signage and reduce the cost associated with enforcement of the Sign By-law. Options include, but are not limited to:

1. Amend the Sign By-law to only permit the display of election signs in windows or in windows in doors. This restriction would apply to all private property, including residential and non-residential lands. Signs would only be permitted to be displayed from the interior of the building and may not be posted on building walls or the exterior of garage doors, etc.

This option continues to permit the expression of political speech through the posting of election signs, and has several other advantages including:

- a. Reduces visual clutter and minimizes driver distraction while still providing residents, property owners and third party advertisers with a means to express their support for individual candidates and/or support/opposition related to a question on the ballot.
- b. Continues to provide candidates with an opportunity to secure the consent of a property owner to promote their candidacy.
- c. Eliminates the opportunity for signs to be tampered with or relocated without the consent of the candidate or occupant.
- d. Eliminates the opportunity for unlawful posting without consent of the property owner or resident.
- e. Eliminates the need to determine the extent of the private property boundaries which may be difficult to determine without reference to a survey.

The total number of signs that may be displayed in windows/doors on an individual property may be difficult to enforce given right-of-entry limitations, therefore, staff would recommend minimal restrictions on the number of signs per candidate (currently limited to two per candidate per residential property) and total number of signs that may be displayed on an individual property. Enforcement staff would continue to enforce requirements for removal of signage within 72 hours following the election and will issue a notice of violation prior to proceeding to lay charges.

2. Amend the Sign By-law to increase restrictions on signage. Increased restrictions may include, but are not limited to:
 - a. Reduction in the total number of signs per candidate that may be displayed on private residential and non-residential properties. Election signs will continue to be prohibited on public property.
 - b. Reduction in the permitted size of an election sign.
 - c. Introduction of a limitation on the total number of signs that can be displayed on a private residential and non-residential property.
 - d. Introduction of “permit” stickers that must be displayed on all election signs. An administration fee may be required for the issuance of permit stickers. Staff note that this alternative will be labour intensive and time consuming from both an administrative, investigative and enforcement perspective.

An amendment of this nature may result in a reduction in the total number and size of signs displayed throughout the City but will likely have little impact on the visual impact of street oriented signage or the cost or time associated with enforcement.

3. Require all candidates intending to display election signage to register with the City by providing their legal name, name used on the sign, contact information including phone number and email address as well as a municipal address for their principal residence. This enhances the ability to enforce the Sign By-law against the owner of the election signs, because the owner information would be readily available to the City's enforcement officers, particularly in Provincial and Federal election campaigns where candidate information is not readily available to City staff. In this regard, candidates can be effectively charged for the display of signs in contravention of the Sign By-law. Staff note this option is specifically recommended if lawn signs continue to be permitted.

Financial Implications:

There are no financial implications directly associated with this report. Any financial implications will be evaluated upon direction from Council on the preferred option(s) to amend the Sign By-law. If council directs the Sign By-law to be amended, any future financial implications will be discussed in a forthcoming report to Council, pending Council approval.

Term of Council Priorities:

This report is aligned with the Term of Council priorities of Brampton is a Well-Run City and Brampton is a Green City. Initiatives in this regard will reinforce Brampton's commitment to sustainability and the effective management of municipal assets and resources.

Conclusion:

The Sign By-law is intended to facilitate the orderly display of signage throughout the City by minimizing visual clutter and driver distraction. The By-law also creates a fair and equal opportunity for residents and advertisers to display messaging. There may be additional opportunities for the City to impose increased or modified restrictions on election signs, while still offering candidates the ability to promote themselves and their platforms as well as providing residents, property owners and third party advertisers with an opportunity to visually display their support for election candidates.

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Attachments:

Appendix 1 – Benchmarking – Municipal Sign By-laws

Appendix 2 – Photographic Examples – Impacts Associated with Illegal Election Signs