

Date: 2022-03-31

Subject: 2021 Federal Election – Election Sign Enforcement

Contact: Jean-Pierre (JP) Maurice, Interim Director Enforcement and By-Law Services, Legislative Services, 905-458-3424 ext. 63240

Report Number: Legislative Services-2022-376

Recommendations:

1. **THAT** the information report titled: 2021 Federal Election – Election Sign Enforcement, to Committee of Council, on April 27, 2022 be received.

Overview:

- This report provides an overview of the role of Enforcement and By-Law Services Officers when investigating election sign violations under the Sign By-Law 399-2002;
- This report provides information regarding the enforcement process and cost recovery measures implemented by Enforcement and By-Law Services during the 2021 Federal Elections;
- This report provides data and information to support the continuance of the project on a permanent basis;

Background:

A By-Law Enforcement Officer's primary responsibilities include responding to and investigating community safety complaints, and conducting proactive enforcement. During an investigation, Officers take the necessary action to achieve compliance with the City's By-Laws through education and where applicable lay charges. By-Law Enforcement officers respond to public and private property related violations including election campaign signage violations.

In August 2021, Enforcement and By-Law Services launched a pilot project aimed at improving the investigating process, alleviating the burden on the Provincial Offences Courts and improving cost recovery associated with the removal of illegal election signs. This report is an examination of the project from August 2021 until December 2021.

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

The Sign By-Law 399-2002 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 promote public safety for motorists and pedestrians by restricting the placement of signs to appropriate locations so as not to interfere with sightlines, etc.

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

1. 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.
2. 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.
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.

Current Situation:

When an election sign complaint is received either from a member of the community or as a result of a proactive investigation, a file is generated by the Call Centre (3-1-1) and an Enforcement Officer is assigned to investigate to determine if a violation has occurred.

If an election sign violation is observed on city property, the Officer photographs each sign and documents all evidence. A separate file is created for each candidate and location where illegal signs are found to be in violation. If the sign is on city property, it is removed and returned to Enforcement and By-Law Services for storage and subsequent disposal.

If the sign is located on private property, the Officer will attempt to speak with the property owner/resident and advise them of the violation. Officers seek compliance by having the property owner or resident remove any excess signs or correct any other sign violations. The residents are provided with an opportunity to comply, prior to proceeding with the removal of the sign or laying charges.

Once the investigation is completed or at the end of shift, the Officer completes the required reports, including uploading any notes and photographic evidence to the file. Once completed, three colour copies of the file are printed (office, prosecution and disclosure copy) and submitted to a Supervisor for review.

The Supervisor maintains these files, as additional violations are added to the candidate's file package for the duration of the election. When the election is completed, a prosecution request for each violation is submitted to Prosecution Services. This request is a summary of the offences, including dates, locations, number of signs removed and candidate's names.

Once a Prosecutor has reviewed the packages, charges are sworn to before the Courts and a Summons is issued to each candidate. The Summons indicates the time and date where either the candidate or their legal representative is required to appear in court.

The purpose for holding the file packages until the end of the election is in order to process the defendant's offence packages together. This is to accommodate the candidate and the courts, by having them attend court on one specific date in order to answer to the charges.

Challenges:

- This is a labour-intensive process, which requires the creation of separate files for evidentiary purposes and to support any possible prosecutions. Separate files are required based on candidates, locations and date and time of the offence. A location may have multiple signs for separate candidates which would require multiple files.
- The investigative and administrative processes can take up to one (1) hour per file.
- High-volume court dockets and lack of judicial resources, present enormous challenges and often results in cases not being heard for an extended period of time and possibly resulting in stayed matters.
- Court imposing reduced fines following a plea bargain with Prosecution. This bargaining process is often necessary and contributes to the efficiency of the justice system.
- As Federal and Provincial candidates are not required to register with the City, it is challenging and time consuming to identify a municipal address where legal documents can be served on a defendant.

- High volume of illegal election sign complaints prevents officers from responding to other priority calls and conduct proactive enforcement.

Pilot Program:

In order to expedite the investigation of illegal election signs and reduce the burden on the court system, a new election sign process was implemented in 2021 by Enforcement and By-Law Services. The changes included using the existing City of Brampton User Fee By-Law 380-2003, to manage election sign complaints and invoice the candidates or the designate found to be in violation of the By-Law for the cost of removing the signs.

A new element of the investigative process is utilizing a smartphone sign application. This results in faster turnaround times for investigations. The app also uses GIS technology and the geographical information is automatically captured when a photograph is taken.

When a public complaint is received, a file is created, and an officer is assigned to investigate. If there is no offence, the file is closed, and no further action is taken.

Should a violation be observed during a proactive or reactive investigation, the officer uses the smartphone application to document the evidence, including the name of the candidate party, the candidate's name, photographs, and the file number. This automatically links the investigative information to the file. This process greatly reduces the amount of investigative time and increases efficiency.

Illegal signs seized during an investigation are removed and returned to Enforcement and By-Law Services for storage. Candidates are given a specific time period to schedule an appointment to retrieve their signs and pay a retrieval fee of \$50.00, as outlined in the User Fee By-Law. Any unclaimed signs are disposed of at the sole discretion of Enforcement and By-Law Services.

At the end of the election period, a report is generated to determine how many illegal signs were removed by Enforcement Officers. An invoice is created for the candidate or their campaign office for \$25.00 per sign removed, as prescribed in the User Fee By-Law.

Benefits of the new process include:

- This process reduces the overall investigative and processing time from approximately one (1) hour to less than five (5) minutes, per sign.
- Evidence is stored within the smartphone application and removes the requirement to update files for court processes.
- A report can be generated for violations and invoices can be created as prescribed in the User Fee By-Law.

- The preparation of prosecution files and the issuance of court summons are no longer required, therefore reducing the burden on the provincial court system and contributing to the efficiency of the justice system.
- This process also supports this Term of Council priority to be a “Green City”, as it removes the need to generate paper copies of files and gives candidates the opportunity to collect their signs and recycle/reuse them.

This process would not preclude an Enforcement Officer from laying charges under the Sign By-Law. Only under rare circumstances and following consultation with a Supervisor would charges be laid so as to ensure a fair and equitable process.

2021 Federal Election:

The pilot project was implemented during the September 20, 2021 Federal Election and under the City’s User Fee By-Law, invoices were created for the cost of removing the illegally placed election signs.

As a method of recouping costs associated with Officers removing illegal election signs, “Removal of Illegal Sign” and “Sign Retrieval” Fees were imposed to the person(s) responsible for illegally placing the signs.

Under the City of Brampton User Fee By-Law 380-2002, the City can impose fees and charges for services or activities provided when removing illegal signs. The By-Law allows the City to impose a fee of \$50.00 for “Sign Retrieval Fee – Illegal Sign”, which includes the cost of retrieving the signs from the storage facility and returning them to the owner. It also allows the City to impose a fee of \$25.00 for “Removal of Illegal Sign (per Sign)” which includes the cost of removing an illegal sign.

Following the election, staff reviewed the information gathered during the investigations and based on clear and convincing evidence, which includes photographic evidence, invoices representing the number of illegal signs seized and sign retrieval fees were created and mailed to the candidate or their designate.

In 2021, Officers removed 2,478 Federal election signs which were illegally placed. Due to technical difficulties in uploading photographs onto the election sign application, a total of 338 signs were invoiced at \$25.00 per sign. Those technical issues have since been resolved and the number of signs invoiced is expected to be in line with the number of signs removed by the Officers.

Given that this was a pilot project, a more lenient approach was taken to allow some discretion with respect to the number of signs invoiced, in order to assess the effectiveness of the project.

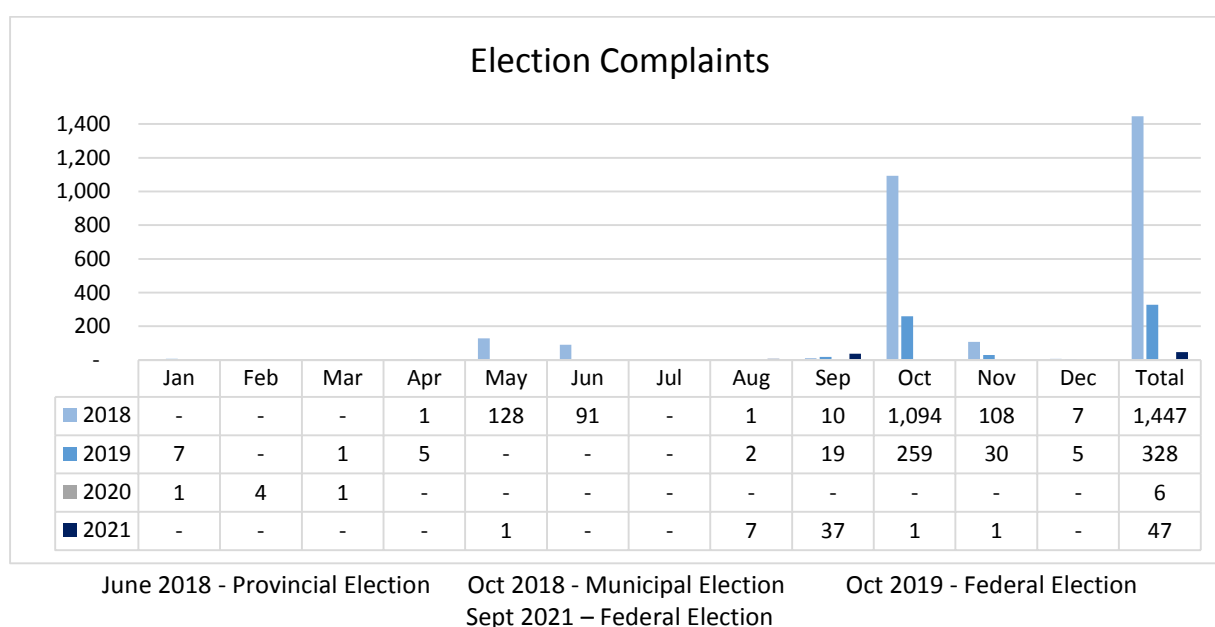
As a result, a total of nine (9) invoices were issued totaling \$8,450.00. As of March 1, 2022, seven (7) invoices were paid totaling \$7,025.00. If invoices had been created for

every sign removed by the Enforcement Officers, the total amount owed to the City would have been in the vicinity of \$60,000.

Please refer to Appendix B (Status of Invoices) for details.

The invoices are issued with payment terms of NET60, therefore after 60 days an overdue notice is sent out. At 90 days, a final notice is mailed and a two weeks grace period is provided from the time the final notice is sent out. Following the two weeks grace period, the final notice is sent to a collection agency, if the invoice is not paid.

Once it is forwarded to a collection agency, they are required to pay the outstanding invoice balance, interest balance (which continues to accrue) as well as a collection agency fee which is 14.5% of the invoice amount.



Pre-Election Communication Strategy:

In advance of the 2021 Federal Election, staff proactively met with some of the candidates and/or their campaign managers to provide them with information about the Sign By-Law. They received an information letter, which included relevant information regarding policies and procedures that are specific to the City of Brampton.

Requirements and restrictions of the Sign By-Law as it related to the display of election signs was included in the letter, as well as reference to the City's website with a link to the Consolidated Sign By-Law.

Please refer to Appendix A (2021 Federal Election – Letter to Candidates) for details.

During the proactive information sessions, Officers were able to collect the required information from the candidate and/campaign manager should an invoice be required.

Impact on Enforcement:

This new process continued to use the City of Brampton Sign By-Law 399-2002 to determine where violations occurred, but rather than request prosecution for matters related to sign offences it was determined that the City of Brampton User Fee By-Law would be utilized and candidates would be invoiced for the cost associated with the removal of the illegal signs.

It created efficiencies within Enforcement and By-Law Services, while ensuring compliance with the By-Law. All evidence is stored within the smartphone application and removed the time-consuming process of updating files that are required for court processes. It reduced the burden on the provincial court system and contributed to the efficiency of the justice system.

The processing time for one sign is substantially reduced from approximately one (1) hour to less than five (5) minutes, as the smartphone app is not only quicker, the evidentiary requirements to support a successful court prosecution are removed and proceed via invoice rather than Provincial Offences Act (POA).

The average cost to the City of investigating and prosecuting an illegal municipal election sign is approximately \$125.00 to \$130.00 per sign. This includes the following:

- Initiating and conducting an investigation
- Collection of evidence, including notes and photographs
- Notes and prosecution file preparation, including photos and registration forms
- File review by a Supervisor
- Prosecution Coordinator review of the file and preparation of court documents
- Prosecutor review of the file and court time (when applicable)

Corporate Implications:

There is no formal process to dispute an invoice unless the User Fee By-Law is challenged and an individual delegates before council. The invoice is created to recover some of the costs associated with the removal of the illegal signs.

Although the revenue generated from the courts through fines will be impacted by the lack of provincial court charges and fines, we are confident that the revenue generated from the invoices will be greater than the court-imposed fines.

As an example, in 2018, Officers investigated 1,440 complaints and submitted 1,167 prosecution requests to Prosecution Services relating to illegal election signs. The investigative and prosecution costs was estimated to be approximately \$150,000.

As part of the prosecution process, those defendants that plead guilty were sentenced to a fine of \$40.00 per sign on 50% of the total number of counts. The remainder of charges

were withdrawn. As a result, it was expected that the Courts would have imposed approximately \$23,000 in fines against all defendants combined.

In comparison with the 2021 Federal Election where 2,478 signs were removed, the City could have levied \$61,950 if each removed sign were invoiced.

The overall cost for storing and disposing illegal signs ranges from \$300 to \$400 per month. This expenditure is required regardless of the process.

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 and create a fair and balanced opportunity for advertisers to display messaging. The User Fee By-Law provides a recovery mechanism to recoup some of the costs of removing the illegally erected signs, while reducing costs and alleviating the burden on the justice system.

This process creates efficiency within Enforcement and By-Law Services, while ensuring compliance with the By-Law. All evidence is stored within the smartphone application and removes the time-consuming process of updating files that are required for court processes. It reduced the burden on the provincial court system and contributed to the efficiency of the justice system.

Authored by:

Jean-Pierre (JP) Maurice

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Reviewed by:

[Manager/Director]

Approved by:

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[Commissioner/Department Head]

Attachments:

Appendix A: **2021 Federal Election – Letter to Candidates**

Appendix B: **Status of Invoices**

Appendix A: 2021 Federal Election – Letter to Candidates



Legislative Services
Enforcement & By-law Services

August 18, 2021

2021 Federal Election Signs and Use of City Property

Attention Candidates in the 2021 Federal Election:

In advance of the 2021 Federal Election, please note the following provisions within the **City of Brampton Sign By-law 399-2002**, and information on the use of City property. These must be adhered to by all candidates. Enforcement action will be taken against candidates determined to be in contravention of the relevant by-law (see below for actions to be taken).

ELECTION SIGNS

Signs Identifying a Campaign Office

Campaign offices within a commercial development may be permitted to include signs to identify a candidate.

Wall, Window and Banner Signs

Permitted to a maximum of 20% of the area of the building wall of the unit occupied by the campaign office

A permit is required prior to the installation of signs. Candidates should confirm compliance with all Zoning By-laws prior to occupying a commercial unit. Contact City of Brampton Sign Unit at 905.874.2401.

Lawn Signs on Private Property

Lawn signs for federal election candidates do not require a permit and are allowed as follows:

Election Lawn Signs

- Signs may only be displayed after 5:00 pm on the date the Writ of Election is issued in accordance with the Canada Elections Act, as amended.
- Signs must not exceed 2 square metres (21.5 square feet) in sign area
- A maximum of two (2) election signs are permitted per candidate on **residential** properties
- A maximum of three (3) election signs are permitted per candidate on **commercial or industrial** property
- Consent must be obtained from the owner of the property prior to displaying the sign
- It is the candidate's responsibility to ensure that all lawn signs are removed within 72 hours after the close of the election for which they were erected. For the 2021 Federal Election, the deadline to remove signs is 9:30 pm on Thursday, September 23, 2021.

The Corporation of the City of Brampton

2 Wellington Street West, Brampton, ON L6Y 4R2 T: 905.874.2000 TTY: 905.874.2130

Under no circumstances are election signs permitted on any City public property including boulevards, road medians, or parklands.

Should you require further clarification of the by-law provisions or information on obtaining permits for signs, please contact the City of Brampton Sign Unit at 905-874-2401.

Enforcement Action

The City of Brampton Enforcement and By-law Services Division will respond to complaints about the placement of election signs in contravention of the by-law. It will also investigate these concerns proactively.

Signs found in violation of the City of Brampton Sign By-law 399-2002 will be photographed and seized. Once a sign is seized it will be stored for a period of sixty (60) days. During this period a candidate may request to have their signs returned however a \$50.00 sign retrieval fee will be charged **prior** to the return of the signs which were seized due to contravention. This fee is permitted under the **City of Brampton User Fee By-law 380-2003 – Schedule D – Enforcement Fees**. This fee will be reapplied each time a retrieval is requested without exception. Once the period of 60 days has lapsed, any signs not retrieved will be destroyed.

Appointments to retrieve signs which have been seized must be made prior to attendance at the Enforcement and By-law Services office. Appointments can be requested by contacting the City of Brampton Enforcement Clerks at 905-458-3424 extension 63225 or by emailing enforcementclerks@brampton.ca.

In addition to the retrieval fees noted above, the City of Brampton Enforcement and By-law Services Division, as permitted under the User Fee Bylaw, may apply a **\$25.00 per sign fee** (to be invoiced to candidate following the election) for each sign that is removed due to a contravention of the City of Brampton Sign By-law 399-2002.

The City of Brampton at its sole discretion may also explore the option of laying charges under the City of Brampton Sign By-law 399-2002 which may require violators to attend the provincial offences court to have the matter dealt with.

The above by-law requirements and provisions help create an equitable process for all – candidates, property owners, and the City of Brampton.

USE OF CITY PROPERTY FOR CAMPAIGNING

The City of Brampton's [Use of Corporate Resources Policy](#) states that candidates in an election campaign period are **not permitted** use of a City facility or property (including public squares, workplaces and parks), whether directly or indirectly booked, for any election purpose(s), including campaigning or campaign activities.



Legislative Services
Enforcement & By-law Services

Election campaigning is **not permitted** at non-City events that have been privately booked at a City facility, property or park, as is contrary to the prohibition on election campaigning on City property. Any private booking for use of a City facility, property or park, which is then used for election campaigning or vote solicitation purposes, knowingly or unknowingly, may be refused, cancelled or shut down by the City, as deemed appropriate.

Election campaigning **is permitted** on public roadways and sidewalks (e.g. operating a vehicle with election signs or using the sidewalk to greet people and solicit support and voting), subject to the election sign provisions of the City's Sign By-law.

Subject to COVID-19 related health and safety restrictions, attendance and campaigning at a City event on public property **may be permitted** with limitations (i.e. so long as it is not disruptive to the event as deemed by the City's event organizer/lead).

Please note that COVID-19 related health and safety restrictions are in effect across the city.

For questions regarding the City's Use of Corporate Resources Policy, please contact city.clerksoffice@brampton.ca.

Respectfully,

A handwritten signature in blue ink, appearing to read 'Paul Morrison', written over a faint circular stamp.

Paul Morrison,
*Acting Commissioner of Legislative Services, and
Director of Enforcement and Bylaw Services*

City of Brampton
8850 McLaughlin Rd. Unit #2
Brampton, Ontario
L6Y 5T1

Appendix B: Status of Invoices

Invoice No.	Status	Invoice Amount Paid	Invoice Amount Outstanding
COB21-001866	Overdue (\$475.00)	-	\$482.50 (Including Interests)
COB21-001867	Paid - February 21, 2022	\$1375.00	-
COB21-001869	Paid - January 13, 2022	\$500.00	-
COB21-001871	Paid - December 28, 2021	\$50.00	-
COB21-001872	Paid - December 8, 2021	\$575.00	-
COB21-001873	Paid -November 30, 2021	\$750.00	-
COB21-002028	Paid - December 6, 2021	\$800.00	-
COB21-002029	Overdue (\$950.00)	-	\$964.99 (Including Interests)
COB22-000236	Paid February 28, 2022	\$2975.00	-
Total		\$7025.00	\$1447.49 (Including Interests)