

TO:	CHAIR AND MEMBERS CORPORATE SERVICES COMMITTEE MEETING ON JANUARY 10, 2017
FROM:	CATHY SAUNDERS CITY CLERK
SUBJECT:	PROPOSED ELECTION SIGN BY-LAW

RECOMMENDATION

That, on the recommendation of the City Clerk the following actions be taken with respect to Election Signs:

- a) the attached proposed by-law (Appendix 'A') **BE INTRODUCED** at the Municipal Council meeting to be held on January 17, 2017 to repeal Council policy related to Election Signs on City Property as the matter is addressed in the new Election Sign By-law; and
- b) the attached proposed by-law (Appendix 'B') **BE INTRODUCED** at the Municipal Council meeting to be held on January 17, 2017 to repeal By-law No. E-180-305, being an Election Campaign Sign By-law to replace it with a new Election Sign By-law.

PREVIOUS REPORTS PERTINENT TO THIS MATTER
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None.

BACKGROUND

The City of London's Strategic Plan strategic area of focus, *Leading in Public Service* (open, accountable, and responsive government), requests Civic Administration to "explore opportunities for electoral reform" by reviewing Election Signage.

In order to properly administer the Election Sign By-law, Civic Administration believes that a new by-law is warranted. The provisions set out in the new by-law are based on feedback from candidates, as well as the complaints received by both the Election Office and the Public Service call centre. The most common complaints relate to the length of time election signs are posted, proximity to intersections, and sight line concerns. The new by-law addresses these issues as follows:

1. Clearly defining election sign restrictions on all properties.
2. Restricting the placement of election signs to no earlier than Nomination Day in the year of a regular election, excluding campaign office signs and billboards.
3. Campaign office and billboard signs will be permitted to be placed after a candidate has filed their nomination paper with the City Clerk.
4. Election signs are to be removed no later than seventy-two (72) hours following the day of the election.
5. Election signs are prohibited from using the City's logo or the City's municipal election logo.
6. Enforcement of the Election Sign By-law will be assigned to the City Clerk, City Clerk designate, and Municipal Law Enforcement Officers.
7. The City Clerk will have a written policy indicating the process for prescribing regulations related to the Election Sign By-law, including: the consultation process for developing regulations; circulation of the draft for review and comment, posting of regulations prescribed, and a process for reviewing regulations on a regular basis.

The attached proposed by-law (Appendix 'B') has been developed in consultation with the City Solicitor's Office, Public Service call centre and By-law Enforcement; it being noted that any related matters not addressed in the by-law are addressed in the *Municipal Elections Act, 1996*.

Section 5 of the proposed by-law delegates legislative powers to the City Clerk. Section 5 "Removal and Return of Election Signs" states:

- 5.1 *The City Clerk and/or an Enforcement Officer may remove any Election Sign erected in contravention of this by-law without notice.*
- 5.2 *The City Clerk and/or an Enforcement Officer may destroy any Election Signs which have been removed and not claimed and retrieved by the Candidate, persons, or Owner within the time period as prescribed by the City Clerk.*
- 5.3 *The City Clerk may make regulations under this by-law prescribing the rules and procedures for the retrieval and destruction of Election Signs removed under sections 5.1 and 5.2 including, without limitation, the form of and any information required to be provided to the City Clerk and/or an Enforcement Officer to authorize the release of an Election Sign, dates on or by which an Election Sign may be retrieved or destroyed, and the manner in which notice may be given to an Owner relating to the retrieval and destruction of an Election Sign.*

Section 23.2 of the *Municipal Act, 2001* authorizes the delegation of legislative powers, provided that, in the opinion of the council of the municipality, the power being delegated is of a minor nature. In determining whether or not a power is of a minor nature, the council, in addition to any other factors it wishes to consider, shall have regard to the number of people, the size of geographic area and the time period affected by an exercise of the power. Further, section 270 (6) of the *Municipal Act, 2001* requires the municipality to adopt and maintain policies with respect to the delegation of its powers and duties. Council Policy 16(38) addresses delegation of powers and duties to a person or body.

As such, the City Clerk will establish written policy in accordance with Section 5 “Removal and Return of Election Signs” to define specific service delivery and expectations that provide the time and location for candidates to retrieve signs, timeframe after which notice is given to candidates, as to when signs if left unclaimed, will be destroyed, and the manner in which notice is to be provided to candidates. These policies will ensure the intent of the by-law is met throughout the process.

The attached Appendix ‘C’ is Council policy related to Election Signs on City Property. As the matter is now addressed in the proposed new Election Sign By-law, the policy is no longer required and Civic Administration is seeking Council approval to repeal the policy with the attached proposed by-law (Appendix ‘A’).

The attached Appendix ‘D’ provides a comparison of the existing and proposed by-law. An information pamphlet will be produced, and the information will be made available on the City’s website, once direction has been given by Council with respect to the Election Sign By-law to provide access to this information to all interested parties.

CONCLUSION

One of the strategies in the City of London Strategic Plan aimed at “Leading in Public Service through open, accountable, and responsive government”, is to explore opportunities for electoral reform through election signage. The proposed refinements to the Election Sign By-law will address concerns raised by various stakeholders and enable the City of London to administer the related services in a fair and consistent manner.

PREPARED BY:	RECOMMENDED BY:
JACLYN RODRIGUES ELECTIONS INTERN	CATHY SAUNDERS, CITY CLERK
SUBMITTED BY:	
SARAH CORMAN MANAGER, LICENSING & ELECTIONS	

APPENDIX 'A'
REPEAL ELECTION SIGNS ON CITY PROPERTY

Bill No.
2017

By-law No. CPOL.-

A by-law to revoke and repeal Council policy related to Election Signs on City Property.

WHEREAS section 5(3) of the *Municipal Act, 2001*, S.O. 2001, C.25, as amended, provides that a municipal power shall be exercised by by-law;

AND WHEREAS section 9 of the *Municipal Act, 2001*, S.O. 2001, C.25, as amended, provides a municipality with the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority;

AND WHEREAS the Council of The Corporation of the City of London wishes to revoke Council policy pertaining to Election Signs on City Property;

NOW THEREFORE the Municipal Council of The Corporation of the City of London enacts as follows:

1. Any policy of The Corporation of the City of London approved, adopted, or amended by Municipal Council on a day prior to the day this by-law is in force and effect, pertaining to Election Signs on City Property is hereby revoked.
2. Any by-law of The Corporation of the City of London in force and effect on a day prior to the day this by-law is in force and effect, which approves, amends or adopts a Council policy pertaining to Election Signs on City Property is hereby repealed.
3. This by-law shall come into force and effect on the date it is passed.

PASSED in Open Council on January 17, 2017.

Matt Brown
Mayor

Catharine Saunders
City Clerk

First Reading – January 17, 2017
Second Reading – January 17, 2017
Third Reading – January 17, 2017

APPENDIX 'B'
ELECTION SIGN BY-LAW

Bill No.
2017

By-law No. E.-_____

A by-law respecting Election Signs and to repeal
By-law No. E-180-305, being an Election Campaign
Sign By-law.

WHEREAS subsection 5(3) of the *Municipal Act, 2001*, S.O. 2001, c. 25, provides that a municipal power shall be exercised by by-law;

AND WHEREAS subsection 8(1) of the *Municipal Act, 2001*, S.O. 2001, c. 25, provides that the powers of a municipality under this Act shall be interpreted broadly so as to confer broad authority on the municipality to enable the municipality to govern its affairs as it considers appropriate and to enhance the municipality's ability to respond to municipal issues;

AND WHEREAS subsection 8(3) of the *Municipal Act, 2001*, S.O. 2001, c. 25 provides that a by-law may regulate or prohibit respecting the matter, require persons to do things respecting the matter, and provide for a system of licences respecting the matter;

AND WHEREAS subsection 10(1) of the *Municipal Act, 2001*, S.O. 2001, c. 25 provides that a municipality may provide any service or thing that the municipality considers necessary or desirable for the public;

AND WHEREAS subsection 10(2) of the *Municipal Act, 2001*, S.O. 2001, c. 25 provides that a municipality may pass by-laws respecting: 5. Economic, social and environmental well-being of the municipality; 6. Health, safety and well-being of persons; 7. Services and things that the municipality is authorized to provide under subsection (1); 8. Protection of persons and property, including consumer protection; 10. Structures, including fences and signs;

AND WHEREAS section 23.2 of the *Municipal Act, 2001*, S.O. 2001, c. 25 permits a municipality to delegate certain legislative and quasi-judicial powers;

AND WHEREAS Council for The Corporation of the City of London is of the opinion that the delegation of legislative powers under this by-law to the City Clerk, including without limitation the power to prescribe procedures for the retrieval and/or destruction of election signs removed under this by-law are powers of a minor nature having regard to the number of people, the size of geographic area and the time period affected by the exercise of the power in accordance with subsection 23.2(4) of the *Municipal Act, 2001*, S.O. 2001, c. 25;

AND WHEREAS section 63 of the *Municipal Act, 2001*, S.O. 2001, c. 25 provides that a by-law may prohibit or regulate the placing or standing of an object on or near a highway, and may provide for the removal and impounding or restraining and immobilizing of any object placed or standing on or near a highway;

AND WHEREAS section 425 of the *Municipal Act, 2001*, S.O. 2001, c. 25, establishes that any person who contravenes any by-law of The Corporation of the City of London is guilty of an offence;

AND WHEREAS section 445 of the *Municipal Act, 2001*, S.O. 2001, c. 25 provides that a municipality may make an order requiring a person who has contravened a by-law or who caused or permitted the contravention, or the owner or occupier of land on which the contravention occurred to do work to correct the contravention;

AND WHEREAS section 446 of the *Municipal Act, 2001*, S.O. 2001, c. 25 provides that where a municipality has the authority to direct or require a person to do a matter or thing, the municipality may also provide that, in default of it being done by the person directed or required to do it, the matter or thing shall be done at the person's expense, and that the municipality may

recover the costs of doing a matter or thing by action or by adding the costs to the tax roll and collecting them in the same manner as property taxes;

NOW THEREFORE the Municipal Council of The Corporation of the City of London enacts as follows:

1. DEFINITIONS

1.1 In this By-law:

“Billboard” means an outdoor sign erected and maintained by a person, firm, corporation, or business engaged in the sale or rental of the space on the sign to a clientele, upon which space is displayed copy that advertises goods, products, or services not necessarily sold or offered on the property where the sign is located, and the sign is either single faced or double faced;

“Boulevard” means that portion of every road allowance which is not used as a sidewalk, driveway access, travelled roadway or shoulder;

“Campaign Office” means a building or structure, or part of a building or structure, used by a candidate to conduct an election campaign;

“Candidate” means

- (i) a candidate within the meaning of the *Canada Elections Act*, the *Election Act* (Ontario) or the *Municipal Elections Act, 1996* as amended; and
- (ii) shall be deemed to include a person seeking to influence other persons to vote for or against any question or by-law to the electors under section 8 of the *Municipal Elections Act, 1996* as amended;

“City” means The Corporation of the City of London;

“City Clerk” means the City Clerk of the City or a person delegated by them for the purpose of this By-law;

“Crosswalk” means

- (i) that part of a Street at an intersection that is included within the connections of the lateral lines of the Sidewalks on opposite sides of the Street measured from the curbs, or in the absence of curbs from the edges of the roadway; or
- (ii) any portion of a roadway at an intersection or elsewhere distinctly indicated for pedestrian crossing by signs, school crossing signs (as per the Ontario Traffic Manual – Book 5 Regulatory Signs) or by lines or other markings on the surface thereof; and
- (iii) shall include pedestrian crossovers;

“Enforcement Officer” means a Municipal Law Enforcement Officer appointed by the Municipal Council of the City;

“Election Sign” means any sign, including posters, promoting, opposing or taking a position with respect to:

- (i) any candidate or political party in an election under the *Canada Elections Act*, the *Election Act* (Ontario) or the *Municipal Elections Act, 1996*;
- (ii) an issue associated with a person or political party in an election under the *Canada Elections Act*, the *Election Act* (Ontario) or the *Municipal Elections Act, 1996*; or
- (iii) a question, law or by-law submitted to the electors under the *Canada Elections Act*, the *Election Act* (Ontario) or the *Municipal Elections Act, 1996*;

“Median Strip” means the portion of a street so constructed as to separate traffic travelling in one direction from traffic travelling in the opposite direction by a physical barrier or a raised or depressed paved or unpaved separation area that is not intended to allow crossing vehicular movement and includes a central island in a roundabout;

“Owner” means the registered owner of the property on which an election sign is placed; any person described on or whose name, image, address or telephone number appears on the election sign; any person who is in control of the election sign; any person who benefits from the message on the election sign; or any person who has placed or permitted to be placed the election sign; and for the purposes of this By-law there may be more than one owner of an election sign;

“Park” means land and land covered by water and all portions thereof under the control or management or joint management of the City, that is or hereafter may be established, dedicated, set apart, or made available for use as public open space, including a natural park area and an environmentally significant area as defined in this by-law, including any buildings, structures, facilities, erections and improvements located in or on such land;

“Place” means attach, install, erect, build, construct, reconstruct, move, display or affix;

“Public Property” means real property owned by or under the control of the City, including a park, or any of its agencies, local boards, commissions or corporations but, for the purposes of this by-law, does not include a street;

“Roadway” means the part of a street that is improved, designed or ordinarily used for vehicular traffic;

“Sidewalk” means any municipal walkway, or that portion of a street between the curb line or the lateral line of a roadway and the adjacent property line, primarily intended for the use of pedestrians;

“Sight Triangle” means a triangle at the intersection of two roadways, two sides of a triangle consist of the part of the limit of each roadway measured 9 metres (23.62 feet) along the limit from its convergence with the other limit and the third side of which triangle consists of a straight line between the ends of the first two sides and projected to the edge of the roadway;

“Sign Area” means the area of one side of a sign where copy can be placed;

“Sign Height” means the vertical height of a sign from the lowest point of finished grade to the highest part of the sign;

“Street” means a highway, road allowance, street, avenue, parkway, driveway, lane, square, place, bridge, viaduct, trestle or other public way under the jurisdiction of the City of London and this term includes all road works and appurtenant to municipal land;

“Voting Place” means a place where electors cast their ballots and:

- (i) when a voting place is located on public property, includes any street abutting; or
- (ii) when a voting place is located on private property, includes any street abutting.

2. GENERAL PROHIBITIONS

2.1 No person shall Place or permit to be Placed an Election Sign except in accordance with this by-law.

2.2 No person shall Place or permit to be Placed an Election Sign that:

- (a) is illuminated;
- (b) has a sign area of more than 6 square metres;
- (c) interferes with the safe operation of vehicular traffic or the safety of pedestrians;
or
- (d) impedes or obstructs the City’s maintenance operations.

2.3 Subsections 2.2 (a) and (b) do not apply to an Election Sign promoting a Candidate on a Campaign Office or a Billboard.

2.4 No person shall Place or permit to be Placed an Election Sign on or in a Voting Place.

2.5 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.

3. TIMING

- 3.1 No person shall Place or permit to be Placed an Election Sign for a federal or provincial election or by-election earlier than the day the writ of election or by-election is issued.
- 3.2 No person shall Place or permit to be Placed an Election Sign for a municipal election, except an Election Sign which is Placed on a Campaign Office:
- (a) earlier than Nomination Day in the year of a regular election; or
 - (b) earlier than Nomination Day for a by-election.
- 3.3 No person shall Place or permit to be Placed an Election Sign for a municipal election on a Campaign Office earlier than the day that Candidate has filed their nomination with the City Clerk.
- 3.4 No Owner shall fail to remove their Election Sign after the expiry of seventy-two (72) hours immediately following 11:59 p.m. of the day of the election.

4. ELECTION SIGNS ON PUBLIC PROPERTY

- 4.1 No person shall Place or permit to be Placed an Election Sign on Public Property.
- 4.2 No person shall Place or permit to be Placed an Election Sign in a Park.
- 4.3 No person shall Place or permit to be Placed an Election Sign:
- (a) in a Roadway;
 - (b) that impedes or obstructs the passage of pedestrians on a Sidewalk;
 - (c) between a Roadway and a Sidewalk;
 - (d) in a Median Strip;
 - (e) in a Sight Triangle;
 - (f) less than 3 metres from a Crosswalk;
 - (g) in a Boulevard that abuts a Park;
 - (h) on a tree, or a fence or a gate located on Public Property;
 - (i) on a utility pole.
- 4.4 No person shall Place or permit to be Placed an Election Sign in a Boulevard:
- (a) that has a Sign Height is of more than 4 metres;
 - (b) within 3 metres of a Roadway.
- 4.5 Notwithstanding subsection 4.4 (b), on Highbury Avenue from Hamilton Road to Wilton Grove Road and Veteran's Memorial Parkway from Huron Street to Highway 401, no person shall Place or permit to be Placed an Election Sign within 10 metres from the Roadway.
- 4.6 No person shall injure or foul a street or permit the injuring or fouling of a Street when Placing an Election Sign.
- 4.7 No person shall injure or foul public structures or permit the injuring or fouling of public structures on a Street when Placing an Election Sign.

5. REMOVAL AND RETURN OF ELECTION SIGNS – POWERS OF THE CITY CLERK

- 5.1 The City Clerk and/or an Enforcement Officer may remove any Election Sign erected in contravention of this by-law without notice.

5.2 The City Clerk and/or an Enforcement Officer may destroy any Election Signs which have been removed and not claimed and retrieved by the Candidate, persons, or Owner within the time period as prescribed by the City Clerk.

5.3 The City Clerk may make regulations under this by-law prescribing the rules and procedures for the retrieval and destruction of Election Signs removed under sections 5.1 and 5.2 including, without limitation, the form of and any information required to be provided to the City Clerk and/or an Enforcement Officer to authorize the release of an Election Sign, dates on or by which an Election Sign may be retrieved or destroyed, and the manner in which notice may be given to an Owner relating to the retrieval and destruction of an Election Sign.

6. ADMINISTRATION

6.1 The administration of this by-law is delegated to the City Clerk.

7. ENFORCEMENT

7.1 This by-law may be enforced by the City Clerk or an Enforcement Officer.

8. OFFENCE AND PENALTY

8.1 Every person who contravenes any provision of this By-law is guilty of an offence and on conviction is liable to a fine as provided for in the *Provincial Offences Act*, R.S.O. 1990, c. P. 33.

9. SHORT TITLE OF BY-LAW

9.1 This by-law may be referred to as the "Election Sign By-law".

10. FORCE AND EFFECT

10.1 By-law E-180-305, being an Election Campaign Sign By-law and all amendments to such by-law are hereby repealed.

10.2 This by-law shall come into force and effect on the day it is passed.

PASSED in Open Council on January 17, 2017.

Matt Brown
Mayor

Catharine Saunders
City Clerk

First Reading – January 17, 2017
Second Reading – January 17, 2017
Third Reading – January 17, 2017

APPENDIX 'C'
COUNCIL POLICY 16(14)

16(14) Election Signs on City Property

That no election signs be permitted on City property other than on those boulevards which are obviously under the control of adjacent property owners and only with the consent of such property owners.

ADOPTED OCTOBER 20, 1980; AMENDED FEBRUARY 15, 1988 [16(14) AUG 1999]

APPENDIX 'D'
COMPARISON OF EXISTING AND PROPOSED ELECTION SIGN BY-LAW

EXISTING BY-LAW, 2014	PROPOSED BY-LAW, 2017
Definitions	Definitions
Not defined in the current by-law	"Billboard", "Boulevard", "Campaign Office", "City", "City Clerk", "Crosswalk", "Enforcement Officer", "Median Strip", "Owner", "Park", "Place", "Public Property", "Sidewalk", "Sign Area", "Sign Height", "Street" and "Voting Place" are new definitions.
"candidate" is defined	"Candidate" definition expanded
"campaign sign" is defined	"Election Sign" replaces "campaign sign" with an expanded definition
Not outlined in the current by-law	General Prohibitions
	2.2 No person shall Place or permit to be Placed an Election Sign that: (a) is illuminated; (b) has a sign area of more than 6 square metres; (c) interferes with the safe operation of vehicular traffic or the safety of pedestrians; or (d) impedes or obstructs the City's maintenance operations.
	2.3 Subsection 2.2 (a) and (b) does not apply to an Election Sign promoting a Candidate on a Campaign Office or Billboard.
	2.4 No person shall Place or permit to be Placed an Election Sign on or in a Voting Place.
	2.5 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.
	Timing
	3.1 No person shall Place or permit to be Placed an Election Sign for a federal or provincial election or by-election earlier than the day the writ of election or by-election is issued.
	3.2 No person shall Place or permit to be Placed an Election Sign for a municipal election, except an Election Sign which is Placed on a Campaign Office: (a) earlier than Nomination Day in the year of a regular election; or (b) earlier than Nomination Day for a by-election.
	3.3 No person shall Place or permit to be Placed an Election Sign for a municipal election on a Campaign Office earlier than the day that Candidate has filed their nomination with the City Clerk.
	3.4 No Owner shall fail to remove their Election Sign after the expiry of seventy-two (72) hours immediately following 11:59 p.m. of the day of the election.
Road Allowance	Election Signs on Public Property
Not outlined in the current by-law	4.1 No person shall Place or permit to be Placed an Election Sign on Public Property.
	4.2 No person shall Place or permit to be Placed an Election Sign in a Park.
	4.3 No person shall Place or permit to be Placed an Election Sign: (a) in a Roadway; (b) that impedes or obstructs the passage of pedestrians on a Sidewalk; (c) between a Roadway and a Sidewalk; (d) in a Median Strip; (e) in a Sight Triangle; (f) less than 3 metres from a Crosswalk; (g) in a Boulevard that abuts a Park;

	(h) on a tree, or a fence or a gate located on Public Property;
	4.4 No person shall Place or permit to be Placed an Election Sign in a Boulevard: (a) that has a Sign Height is of more than 4 metres; (b) within 3 metres of a Roadway.
	4.5 Notwithstanding subsection 4.4 (b), on Highbury Avenue from Hamilton Road to Wilton Grove Road and Veteran’s Memorial Parkway from Huron Street to Highway 401, no person shall Place or permit to be Placed an Election Sign within 10 metres from the Roadway.
	4.6 No person shall injure or foul a street or permit the injuring or fouling of a Street when Placing an Election Sign.
	4.7 No person shall injure or foul public structures or permit the injuring or fouling of public structures on a Street when Placing an Election Sign.
	Removal and Return of Election Signs – Powers of the City Clerk
	5.1 The City Clerk and/or an Enforcement Officer may remove any Election Sign erected in contravention of this by-law without notice.
	5.2 The City Clerk and/or an Enforcement Officer may destroy any Election Signs which have been removed and not claimed and retrieved by the Candidate, persons, or Owner within the time period as prescribed by the City Clerk.
	5.3 The City Clerk may make regulations under this by-law prescribing the rules and procedures for the retrieval and destruction of Election Signs removed under sections 5.1 and 5.2 including, without limitation, the form of and any information required to be provided to the City Clerk and/or an Enforcement Officer to authorize the release of an Election Sign, dates on or by which an Election Sign may be retrieved or destroyed, and the manner in which notice may be given to an Owner relating to the retrieval and destruction of an Election Sign.
Not outlined in the current by-law	
Administration	Administration
2. Administration assigned to City Engineer.	8.1 Administration assigned to the City Clerk.
Enforcement	Enforcement
Not outlined in the current by-law	9.1 Enforcement assigned to the City Clerk or their designate and an Enforcement Officer.