

Report to Corporate Services Committee

To: Chair and Members
Corporate Services Committee
From: Michael Schulthess, City Clerk
Subject: Election Sign By-law Update
Date: March 28, 2022

Recommendation

That, on the recommendation of the City Clerk, the attached proposed by-law (Appendix "A") BE INTRODUCED at the Municipal Council meeting to be held on April 12, 2022 to repeal By-law No. E-185-537, being the "Election Sign By-law" and to replace it with a new Election Sign By-law.

Analysis

1.0 Background Information

1.1 Background Reports

Corporate Services Committee – January 10, 2017 – Proposed Election Sign By-law
Corporate Services Committee – September 12, 2017 – Proposed Election Sign By-law
Corporate Services Committee – October 24, 2017 – Proposed Election Sign By-law
Corporate Services Committee – November 7, 2017 – Proposed Election Sign By-law for a municipal election.

Corporate Services Committee – January 10, 2022 – Election Sign By-law Update

Corporate Services Committee – February 28, 2022 – Election Sign By-law Update

2.0 Discussion and Considerations

2.1 Proposed Changes

The Municipal Council, at its session held on March 22, 2022 resolved:

"That the Election Sign By-law BE REFERRED back to the Civic Administration to prepare a revised by-law to be brought forward to the March 28, 2022 Corporate Services Committee that would include:

- a) a revision to section 3.2, as follows: "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 or private property, earlier than Nomination Day in the year of a regular election; and,
- b) a revision to section 3.4 to change the removal requirement from 96 hours to 72 hours.

Attached as Appendix 'A' is the draft by-law with the proposed changes referred to the Civic Administration at Municipal Council on March 22, 2022. It being noted that section 3.3 was also amended for consistency with the amended section 3.2 and to provide clarity around Election Sign placement for private property.

3.0 Financial Impact

Currently, there is no fee to place election signs in the City of London, nor is there a specific non-compliance fee for signs that contravene the by-law, however, every person who contravenes any provision of the election sign 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.

Conclusion

The proposed amendments to the Election Sign By-law are consistent with Council direction and if enacted on April 12, 2022 will apply to all upcoming elections.

Prepared by: Jeannie Raycroft, Manager, Licensing and Elections

Submitted by: Sarah Corman, Deputy City Clerk

Recommended by: Michael Schulthess, City Clerk

- c. **Shane Maguire, Division Manager – Roadway Lighting and Traffic Control**
Heather Chapman, Manager, Community Compliance and Animal Welfare Services

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Bill No.

By-law No. E.-

A by-law to repeal By-law No. E.- 185-537 being the "Election Sign By-law", and to enact a new "Election Sign By-law".

WHEREAS subsection 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 subsection 8(1) of the *Municipal Act, 2001, S.O. 2001, c. 25*, as amended, 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*, as amended, 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*, as amended, 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*, as amended, 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*, as amended, 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*, as amended;

AND WHEREAS section 63 of the *Municipal Act, 2001, S.O. 2001, c. 25*, as amended 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*, as amended, 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*, as amended, 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;

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AND WHEREAS section 446 of the *Municipal Act, 2001, S.O. 2001, c. 25*, as amended, 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 responsible for a business, or corporation engaged in the sale or rental of the space on the billboard to a Candidate or Registered Third Party for the purposes of advertising, 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* as amended;
- (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* as amended; 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* as amended;

"Boulevard" means that portion of every Street which is not used as a Sidewalk, driveway access, travelled Roadway or shoulder;

"Campaign Office" means one building or structure, or part of one building or structure, used by a Candidate or Registered Third Party 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

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(iii) shall include pedestrian crossovers;

“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* as amended;

(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* as amended; 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* as amended;

For the purposes of clarification, “Election Sign” includes “Billboard Election Sign”;

“Electoral District” means a geographic area represented by a Member of Municipal Council, Member of School Board, Member of Provincial Parliament in the Legislative Assembly of Ontario, and Member of Federal Parliament in the House of Commons;

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

“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;

“Nomination Day” means the deadline to file a nomination with the City Clerk under the *Municipal Elections Act, 1996* as amended;

“Owner” means 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. 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;

“Property” means property as defined by the Land Titles Act, 1990;

“Public Property” means 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. Public Property shall be deemed to include public utilities facilities, and shall also be deemed to include, benches, municipal garbage containers or other structures located on a Street;

“Registered Third Party” means any individual, corporation or trade union registered in accordance with Section 88.6 of the *Municipal Elections Act, 1996* as amended;

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

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“**Sidewalk**” means any municipal walkway, or that portion of a Street between the Roadway and the adjacent property line, primarily intended for the use of pedestrians;

“**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;

“**Utility**” means water, sewer, artificial or natural gas, petrochemical, electrical power or energy, steam or hot/chilled water, and telecommunication networks, and includes the works, structures, buildings and appurtenances necessarily incidental to the supplying of such services;

“**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;

“**Writ of Election**” means the date as defined in the Canada Elections Act and the Elections Act (Ontario).

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 without permission of the owner of the Property.

2.3 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; or

(e) does not identify who is responsible for the messaging.

2.4 Subsections 2.3 (a) and (b) do not apply to an Election Sign promoting a Candidate on the Property on which the Campaign Office sits provided the written consent of the owner of the Property is obtained and furnished to an Enforcement Officer upon demand.

2.5 No person shall Place or permit to be Placed an Election Sign on or in a Voting Place on any Advance Vote Day or Voting Day.

2.6 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.

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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 ~~or private property on the Property on which the Campaign Office sits provided the written consent of the owner of the Property is obtained and furnished to an Enforcement Officer upon demand:~~

(a) earlier than ~~one week prior to~~ 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 ~~or private property~~ earlier than the day that Candidate or Registered Third Party has filed their nomination or registration with the City Clerk.

3.4 No Owner shall fail to remove their Election Sign after the expiry of ~~72~~ 96 hours immediately following 11:59 p.m. of the day of the election.

4. ELECTION SIGN PLACEMENT

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 on a Street outside of the Electoral District where the Candidate is running for office.

4.4 Section 4.3 does not apply to an Election Sign within 50 metres of any Electoral District that is adjacent to the Electoral District where the Candidate is running for office.

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

(a) in a Roadway;

(b) within 3 metres of a Roadway;

(c) between a Roadway and a Sidewalk;

(d) that impedes or obstructs the passage of pedestrians on a Sidewalk;

(e) in a Median Strip;

(f) less than 3 metres from a Crosswalk;

(g) on a tree, or a fence, or a wall, or a gate, or a utility pole located on Public Property or a Street;

(h) in a Boulevard that abuts a Park;

(i) on a Street within 100 metres of another Election Sign of the same Candidate.

4.6 No person shall Place or permit to be Placed an Election Sign that has a Sign Height:

(a) of more than 1.8 metres when Placed within 3 to 8 metres of the Roadway;

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(b) of more than 4 metres when Placed beyond 8 metres of the Roadway.

4.7 Notwithstanding subsection 4.6 (b), on Highbury Avenue from Hamilton Road to Wilton Grove Road and Veteran's Memorial Parkway from Clarke Road to Wilton Grove Road, no person shall Place or permit to be Placed an Election Sign within 10 metres from the Roadway.

4.8 No person shall injure or foul a Street or permit the injuring or fouling of a Street when Placing an Election Sign.

4.9 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.

4.10 No person shall injure or foul a Utility or permit the injuring or fouling of a Utility when Placing an Election Sign.

5. REMOVAL AND RETURN OF ELECTION SIGNS – POWERS OF THE CITY CLERK AND/OR ENFORCEMENT OFFICER

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 removal, retrieval and destruction of Election Signs 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 No. E.-185-537, being the "Election 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

Mayor

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Michael Schulthess
City Clerk

First Reading –
Second Reading –
Third Reading –