



Report to: General Committee

Meeting Date: February 5, 2018

---

**SUBJECT:** Changes to Markham's Election Sign By-law  
**PREPARED BY:** Carlie Turpin, Manager, Elections

---

**RECOMMENDATION:**

- 1) That the report entitled “Changes to Markham’s Election Sign By-law Regulations ” be received; and,
- 2) That the “Election Sign By-law” appended to this report as Attachment “A”, incorporating the recommendations of Option 3, be adopted; and,
- 3) That Staff be authorized and directed to do all things necessary to give effect to this resolution.

**PURPOSE:**

The purpose of this report is to outline the recommended changes to the City’s Sign By-law No. 2002-94 to ensure compliance with recent legislative changes and to address issues from the 2014 Municipal Election.

**BACKGROUND:**

Markham’s election signs are currently regulated by Sign By-law No. 2002-94, which was last amended in 2010 and regulates most forms of signage in the City. The Municipal Elections Act has undergone a number of legislative changes that require the City to amend the current by-law. Furthermore, there were a number of issues raised by the public and candidates, during the 2014 Municipal Election that warranted further review of the City’s election sign regulations. As a result, a revised, stand-alone Election Sign By-law is being recommended. The proposed By-law was developed in consultation with all York Region municipalities.

Upon a comprehensive review of the City’s election sign practices, issues with the current election sign regulations were identified and summarized as follows:

1. General lack of understanding/confusion with respect to sign restrictions resulting in significant non-compliance and public complaints, and
2. Lack of staff resources necessary to fully enforce the by-law and effectively administer the election sign deposit program.

The proposed new Election Sign By-law addresses these issues as follows:

1. Consolidating election sign regulations and definitions from By-laws 2002-94 and 2010-57 into a clearly articulated and stand-alone Election Sign by-law.
2. Ensuring consistency with other York Region Sign By-laws where possible.

- 
3. Implementing an election sign fee to help recover the cost of administering an election sign enforcement program.
  4. Expanding the definition of election signs to include third party advertisement and third party election signage.
  5. Clearly defining election sign restrictions on public and private properties.
  6. Prescribing the Clerk's authority to make regulations with respect to the removal and return of election signs.

## **OPTIONS/ DISCUSSION:**

### Consolidation of Election Sign Regulations

The City's current election sign regulations are found within the City's Sign By-law 2002-94, as amended by By-law 2010-57. This By-law is extensive and contains a number of sign provisions unrelated to election signs that can be confusing for the public and candidates. To better serve the public, the election sign provisions have been removed and placed into a stand-alone Election Sign By-law (that addresses only election signs).

### Consistency with York Region Sign By-laws

The draft by-law was drafted in consultation with all York Region municipalities and is consistent with the approach taken by each municipality. It is the intent of the proposed By-law to ensure the rules surrounding election signs are as consistent as possible across York Region. This will better serve the public and candidates by introducing a Region-wide standard for election signs.

### Election Sign Fee

During the 2014 Municipal Election, the City required candidates to pay a \$250 refundable deposit in order to be permitted to place election signs within the City. The deposit was refundable if the candidate complied with the requirements of the Sign By-law. If election signs were found to be in contravention of the By-law, City staff would remove the signs and the candidate was required to pay a \$25 fee per non-compliant sign.

While the goal of this approach was to encourage election sign compliance, 54 percent of candidates forfeited their deposit due to non-compliance with the By-law. In total, 2,595 signs from 68 candidates were removed by City staff during the 2014 Municipal Election. The administrative process was lengthy and time-consuming for Staff who were required to sort through removed signs and issue invoices for removal fees to the 68 candidates. Furthermore, the extremely high number of non-compliant election signs made it difficult for Enforcement Staff to keep up with maintaining safe and visually clear roadways for motorists and pedestrians.

---

Rather than placing an emphasis on deterrence and compliance, the proposed By-law will require each candidate to pay a non-refundable election sign fee in order to place election signs within the City. The fee will remain at \$250 for the 2018 Municipal Election. This fee will help offset the cost of administering and enforcing the Election Sign By-law. This fee will be charged in addition to York Region's \$250 sign permit fee, both of which are collected and retained by the City. Although this fee will not be sufficient to completely offset the program costs, it will provide some financial relief and is modest enough to not deter individuals from campaigning for public office. The City will no longer be invoicing candidates for the removal of election signs that are found to be non-compliant with the By-law.

### Third Party Advertising

Recent amendments to the Municipal Elections Act ("the Act"), which take effect April 1, 2018, will regulate third parties and third party advertising in Municipal Elections. These amendments create a regulatory framework that will require third parties to register with a municipality if they intend to advertise in that municipality, and that imposes spending and contribution limits.

Individuals, corporations and unions are permitted to register as a third party. Candidates cannot register as, or otherwise direct, a third party. Registration allows third parties to support or oppose any candidate that the electors in the municipality can vote for (local council, school board trustee positions and regional council offices).

The Act defines "third party advertisement" as an advertisement in any broadcast, print, electronic or other medium that has the purpose of promoting, supporting or opposing:

- a) a candidate; or
- b) a "yes" or "no" answer to a question on the ballot.

With these amendments, third parties will be permitted to erect signs and use other advertising media to support or oppose election candidates, subject to the following Provincial regulations:

- a) Third parties must be registered with Clerk of the municipality they are advertising in;
- b) Third parties cannot incur expenses for advertisements outside of the "restricted period" (the "restricted period" is the period between the first day that candidates in Municipal Elections can file for nomination (May 1, 2018) and the Friday before Voting Day (October 19, 2018));
- c) During the restricted period, third parties' expenses in relation to third party advertisements cannot exceed the amount calculated in accordance with the prescribed formula; and,

- 
- d) During the restricted period, third party advertisements must contain the following information:
1. The name of the registered third party
  2. The municipality where the registered third party is registered
  3. A telephone number, mailing address or email address at which the registered third party may be contacted during the restricted period.

Given the addition of third party advertising to the Municipal Election, it is necessary to include regulations within the proposed new Election Sign By-law to restrict and limit the placement of third party signs in the same manner the City regulates other election signs.

### Placement of Election Signs

Restrictions on the placement of election signs within the City exist for a number of reasons. It is important that election signs not be placed in locations that interfere with the safe movement and visibility of vehicular and pedestrian traffic. It is also important that election signs be placed in accordance with certain Provincial and Federal legislative requirements, including requirements that election signs not be placed in or on voting locations. Lastly, though election signs play an important role in promoting the democratic electoral process, election signs should be placed in a manner that is consistent with the positive aesthetic of the City. The most frequent election sign complaint from the 2014 Municipal Election related to the quantity of election signs at particular high-traffic intersections. Proliferation of signs at these high density areas (usually on the municipal boulevard) resulted in serious safety concerns and complaints about aesthetically unappealing properties.

To address the concerns raised in the 2014 Municipal Election regarding the proliferation of sign pollution in the City, staff have developed the following three options for discussion:

#### Option 1 – Prohibit Elections Signs on Public and Private Property

The City is not in a position to prohibit election signs on public and private property. Prohibiting election signs would be a denial of the constitutionally protected right to freedom of expression that cannot be saved as a reasonable and minimal impairment of the right to free speech under Section 1 of the Canadian Charter of Rights and Freedoms.

#### Option 2 – Prohibit Election Signs on all Public Properties

Under the current Sign By-law, election signs are not permitted anywhere on public property within the City, other than on:

- (a) A municipal boulevard abutting a residential lot, where the property owner of the residential lot has consented to the placement of the sign;
- (b) On a road allowance at a designated intersection shown on Schedule A;

---

Notwithstanding clause (a) above, no Election Sign shall be placed on a municipal boulevard between a sidewalk and a curb or between a sidewalk and the travelled portion of the road.

In addition, the current Sign By-law allows for a candidate to erect a sign on the road allowance on all four corners of a designated intersection (as listed in Schedule A). In the past, many candidates were found to have more than one sign at each corner of the designated intersections). The non-compliance with this section of the Sign By-law resulted in a number of issues and complaints related to safety and the visual appeal of the streetscape.

Several other municipalities have recently decided to prohibit elections signs on all public property, including Brampton, Burlington, Mississauga, Pickering and Caledon. These municipalities cite enforcement issues, safety concerns, and negative aesthetic appeal as reasons for not allowing election signs on public property.

Option 3 (Recommended) – Reduce Number of Signs Permitted at Designated Intersections

The third option is to reduce the number of election signs permitted at designated intersections for each candidate from 4 to 2, consistent with the Region of York's Sign By-law 2005-36. Reducing the number of permitted election signs from 4 to 2 will help reduce the total number of signs at designated intersections and therefore improve visibility for vehicular and pedestrian traffic. Additionally, limiting the number of signs at intersections will reduce the visual distraction for the businesses and homes that occupy the adjacent properties.

To strike a balance between sign pollution and promotion of Municipal Elections, staff recommend Option 3 as the preferred option to reduce the number of signs permitted at designated intersections. This option ensures consistency with the approach taken by the Region of York.

**FINANCIAL CONSIDERATIONS**

Not applicable.

**HUMAN RESOURCES CONSIDERATIONS**

Not applicable

**ALIGNMENT WITH STRATEGIC PRIORITIES:**

Not applicable

**BUSINESS UNITS CONSULTED AND AFFECTED:**

Legal

**RECOMMENDED BY:**

2018-01-23

X



Kimberley Kitteringham

Clerk

Signed by: cxa

2018-01-23

X



Trinela Cane

Commissioner, Corporate Services

Signed by: cxa

**ATTACHMENTS:**

Attachment "A" - Draft Election Sign By-law

Attachment "B" – Schedule A