



City of North Bay Report to Council

Report No: CORP 2021-38

Date: May 3, 2021

Originator: Jenn Montreuil, Deputy City Clerk

Business Unit:

Department:

Corporate Services

Clerks Department

Subject: Election Sign By-Law

Closed Session: yes no

Recommendation

That Council refer Report to Council CORP 2021-38 dated May 3, 2021 by Jenn Montreuil to the General Government Committee.

Background

The purpose of this report is to provide Council with information regarding the regulation of election signs and to seek Council's direction to create a stand-alone by-law to regulate the placement and enforcement of election signs.

During the course of federal, provincial and municipal elections, signs are routinely placed on both private and public property.

An election sign can be defined as any sign advertising or promoting a candidate in a federal, provincial or municipal election, including an election of a local board or commission, and further including a by-election or referendum intended to influence persons to vote for or against any candidate or question or bylaw submitted to the electors.

Regulating election signs is not unique to North Bay. The *Municipal Act, 2001, SO 2001, c 25* allows municipalities to enact by-laws regarding signs. Many municipalities regulate the placement of political/election signs on public and private property. Such regulatory by-laws include provisions for the enforcement (jurisdiction, removal, storage, disposal, fees/fines) associated with unlawfully placed signs.

The establishment of regulations pertaining to election signs are intended to help address the proliferation of election signs placed on both public and private property during the period leading up to an election.

City's Current Regulations of Election Signs

The City's current [Sign By-Law \(2006-143\)](#) defines an election signs as a "temporary sign" used to advertise a name involved in the current political municipal, provincial or federal election. The Sign By-law specifically exempts election signs from the requirement to obtain a sign permit. As a result of this exemption the Sign By-law does not contain any rules regulating the size or placement of election signs.

Staff have received concerns that interpreting the regulations for temporary signs for municipal, provincial and federal elections under the current Sign By-Law is lacking and unclear to staff, the public, candidates and third parties.

At present, the City does not have a by-law that specifically regulates elections campaign signage. The City's Sign By-Law is silent on the placement of election signs. Notwithstanding the provision that temporary signs are not allowed on municipal property, the past practice has been to allow election signs.

To date, the only restriction that the City has adopted is included in the Use of Corporate Resources for Election Purposes Policy (Attachment "A"). This Policy was adopted and approved in 2005 (Attachment "B") and states:

"After Nomination Day, Members of Council and all other certified candidates for office, may use the following parks for the display of election signs:

- 1. Lee Park – from Judge Avenue to James Street*
- 2. Thomson Park – beside Fisher Street*
- 3. Main Street East Overpass – from Oak Street East to Judge Avenue"*

The City Clerk's Office intends on bringing forward a Report to Council this year for the consideration of modernizing the 'Use of Corporate Resources for Election Purposes' Policy.

Jurisdiction – Federal Elections

As provided for by section 332(1)(2), the [Canada Elections Act](#), SC 2000, c 9, private property owners do not have the right to prevent tenants from putting up election posters on the premises they lease in an apartment building.

Property owners do have the right to set reasonable conditions on the size and type of poster, and to prohibit posters in common areas.

As for the placement on public property, in accordance with section 325(1), no one can “prevent or impair the transmission...of an election advertising message without the consent of a person with the authority to authorize the transmissions”, except for the prevention or impairment, by a public authority, of an unlawful transmission, if reasonable notice has first been given to the person who authorized the transmission, pursuant to section 325(2). In addition, in accordance with section 325(2), a sign, poster or banner may be removed by an employee of public authority if the sign, poster or banner is a hazard to public safety.

Jurisdiction – Provincial Election

The *Election Finances Act*, RSO 1990, c E.7 does not address where signs can or cannot be placed. Where public property is involved, this may fall under the jurisdiction of the municipality, or when placed near a highway, may fall under the jurisdiction of the Ministry of Transportation’s General Guidelines Directive for Election Signs (Attachment “C”).

Historical Request for Regulation of Election Campaign Signage

In 2011, Council had directed staff to prepare a report surrounding preliminary information on restricting election campaign signs on any municipal property which remained on General Government Committee. [Report to Council CORP 2011-136 \(Agenda Item No. 1, Page 16\)](#) was noted and filed by Council on July 30, 2019. At the time the Report was noted and filed, certain members of Council requested that the City Clerk prepare a draft by-law for Council’s consideration to regulate the display and erection of election campaign signs and speak to jurisdictional enforcement of said signs within the City of North Bay for future municipal elections.

Proposed Election Sign By-Law

The proposed Election Sign By-Law and Schedules (Attachment “D”) were developed in consultation with the Planning Department and Legal Department. The proposed By-Law is in keeping with existing zoning requirements, is in-line with the City’s Sign By-Law, and also includes the language surrounding sign allowance in certain municipal park locations as noted in the Use of Corporate Resources for Election Purposes Policy.

The proposed Election Sign By-Law would apply to municipal, provincial and federal elections.

The proposed by-law is comparable with the regulatory approaches taken by municipalities with a similar electorate. From research conducted, the surrounding area municipalities have varied approaches in regulating and enforcing election signs (i.e.

deposits/fees/set fines, enforcement language contained within policies, stand-alone by-law, or language within their respective sign by-laws).

The regulations in the proposed by-law will address the location of certain election signs, in particular, those causing a potential safety hazard to pedestrians and/or motorists, and the removal of signs within a reasonable period of time immediately following an election.

Third Party Advertising

The proposed Election Sign By-Law will also include regulations for registered third party advertisements including those during the restricted period in accordance with amendments made to the [Municipal Election Act, 1996, SO 1996, c 32, Sched](#) (MEA) in April, 2018.

“Third party advertisement” is defined in the MEA as an advertisement in any broadcast, print, electronic or other medium that has the purpose of promoting, supporting or opposing a candidate or a yes or no answer to a question on the ballot.

Upon registration, third parties may support or oppose any candidate (local council and school board trustee positions) that the electors in the municipality can vote for.

Given the addition of third party advertising to municipal elections, 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.

Election signs play an important role in promoting the democratic electoral process; election signs should be placed in a manner that is consistent with provincial and federal legislative requirements, including requirements that election signs not be placed in locations that interfere with the safe movement and visibility of vehicular and pedestrian traffic, or in or on voting locations. Election signs should also be placed in a positive aesthetic of the City.

The following are recommendations regarding the regulations contained in the proposed Election Sign By-Law:

Timing (Section 2.3)

- Election signs shall not be erected or displayed by certified candidates and third party advertisers prior to Nomination Day or September 1st whichever is the latter.
- Election signs can be erected or displayed at campaign offices anytime once a candidate or a registered third party has filed nomination papers.

- Election signs shall not be erected or displayed for a federal or provincial election anywhere other than a campaign office until the day that the writ of elections is issued. A writ is the formal written order instructing the returning officer in each electoral district to hold an election to elect a member of parliament.
- All Election signs shall be required to be removed within seven days after an Election or By-Election is held. Private property owners are also responsible to ensure that the signs on their properties are removed within this timeframe.

Sizing, Placement & Allowable Quantity of Signs on Public Property

Unless otherwise specified below, no signs shall be placed on public property. The following is a summary of the proposed regulations regarding election signs on public property:

Land Type	Municipal Parks	Municipal Road Allowance	Provincial Road Allowance
Sizing	no larger than 0.4 sq. meters (4.30 sq. feet) in size	no larger than 0.4 sq. meters (4.30 sq. feet) in size	as per the MTO General Guidelines Directive for Election Signs (Attachment "C")
Placement	as per Schedule "A" & "B" Sketches of the Proposed By-Law	not located within the sight triangle and not impeding the necessary sightlines of motorists, snow-removal operations or access to a private drive	as per the MTO General Guidelines Directive for Election Signs (Attachment "C")
Allowable Quantity	Maximum two (2) signs* per candidate or registered third party	Maximum two (2) signs* per candidate or registered third party	as per the MTO General Guidelines Directive for Election Signs (Attachment "C")

*Candidates/Third Parties interested in erecting a Billboard on Public Property will be redirected to the Planning Department to make application under the City’s Sign By-Law or to contact Ontario’s Ministry of Transportation to make a sign permit application.

Sizing, Placement & Allowable Quantity of Signs on Private Property

The following is a summary of the proposed regulations regarding election signs on private property:

Type	Private Property	Vehicles	Campaign Office
Sizing	No larger than 1.22 metres by 1.22 metres, or higher than 3.0 metres from the top of the sign to the ground level	No minimum regulation	No larger than 1.22 metres by 1.22 metres, or higher than 3.0 metres from the top of the sign to the ground level
Placement	<ol style="list-style-type: none"> 1. Only with consent of owner or occupant of property; and 2. As long as the sign is not: <ul style="list-style-type: none"> ➤ illuminated, has flashing lights or rotating parts ➤ larger than the size noted above ➤ within 2.0 metres of a Travelled roadway or within a sight triangle ➤ obstructing, impeding or interfering with any fire escape, fire exit door, window, skylight, flue, air intake or exhaust, or any means of access by a firefighter to any part of a building or fire hydrant; ➤ impeding, hindering or preventing parking of vehicles on private lands ➤ impeding or obstructing the passage of pedestrians where they are reasonably expected to walk ➤ interfering with the safe operation of vehicular traffic or the safety of pedestrians, including the visibility of warning devices and traffic signals ➤ impeding or obstructing City maintenance operations 	<ul style="list-style-type: none"> ➤ Not allowed to be placed on Public Property other than a street ➤ Not allowed in cemeteries ➤ Not allowed on municipal property ➤ On advance voting or voting day not allowed within 50 metres of a Voting Place or place where the administration of Election processes are conducted 	<p>Same as #2. under Private Property</p> <p>As long as the sign only displays the following:</p> <ul style="list-style-type: none"> ➤ name of a candidate in a municipal election/by-election ➤ name of a candidate and/or logo of political party in a federal or provincial election/by-election ➤ the location of a candidate or registered third party campaign office
Allowable Quantity	Maximum two (2) signs* per candidate or registered third party	No minimum regulation	No minimum regulation*

*Candidates/Third Parties interested in erecting a Billboard on Private Property will be redirected to the Planning Department to make application under the City's Sign By-Law.

Enforcement

- Staff are proposing that unlawful Election signs may be removed without notice or compensation by a By-Law Enforcement Officer during advance voting periods and on voting day.
- Staff are proposing that any Election sign that has been removed by the City and stored for more than thirty (30) days may be destroyed or otherwise disposed of by the City without notice and without compensation.
- Staff are not proposing any set fines for the proposed by-law. Any violations of the by-law would be enforceable by way of Part III of the *Provincial Offences Act*, R.S.O. 1990, c.P.33.

Financial/Legal Implications

The cost of creating a by-law, conducting the review, and implementation any future enforcement efforts are contained within the existing operating budgets for the Clerk's Department, Planning Department and Legal Department (By-Law Division).

Corporate Strategic Plan

- | | |
|---|--|
| <input type="checkbox"/> Natural North and Near | <input type="checkbox"/> Economic Prosperity |
| <input type="checkbox"/> Affordable Balanced Growth | <input type="checkbox"/> Spirited Safe Community |
| <input checked="" type="checkbox"/> Responsible and Responsive Government | |

Specific Objectives

Ensure continuous improvement of governance and administration.

Options Analysis

Option 1

That Council refer Report to Council CORP 2021-38 dated May 3, 2021 by Jenn Montreuil to the General Government Committee.

This is the recommended option.

Option 2

That Council not refer Report to Council CORP 2021-38 dated May 3, 2021 by Jenn Montreuil to the General Government Committee.

Recommended Option

That Council refer Report to Council CORP 2021-38 dated May 3, 2021 by Jenn Montreuil to the General Government Committee.

Respectfully submitted,

Jenn Montreuil
Deputy City Clerk

I concur with this report and recommendation.

David Euler, P. Eng., PMP
Chief Administrative Officer

Karen McIsaac
City Clerk

Christina A. (Tina) Robertson
Assistant City Solicitor/City Prosecutor

Beverley Hillier
Manager, Planning & Building Services

Ron Melnyk
By-Law Enforcement Coordinator

Personnel designated for continuance:

Jenn Montreuil
Deputy City Clerk

Karen McIsaac
City Clerk