






CITY OF HAMILTON
CORPORATE SERVICES DEPARTMENT
Office of the City Clerk & Legal Services
and
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Licensing and By-law Services Division

TO:	Chair and Members, Planning Committee
COMMITTEE DATE:	January 11, 2022
SUBJECT/REPORT NO:	Amendments to By-law No. 10-197, the Hamilton Sign By-Law, respecting Election Signs (FCS22003/LS22006/PED22018) (City Wide)
WARD(S) AFFECTED:	City Wide
PREPARED BY:	Aine Leadbetter, Manager Elections, Print and Mail, x 2753 Stacey Applebee, Solicitor, x4660
SUBMITTED BY:	Andrea Holland, City Clerk 
SIGNATURE:	Stephen Spracklin, City Solicitor  Monica Ciriello, Director Licensing and By-law Services Planning and Economic Development Department 

Discussion of Appendix "C" to report FCS22003/LS22006 in Closed Session is subject to the following requirement(s) of the City of Hamilton's Procedural By-law and the Ontario Municipal Act, 2001:

- Advice that is subject to solicitor-client privilege, including communications necessary for that purpose.

RECOMMENDATION

- (a) That the draft By-Law "To Amend By-law No. 10-197, the Hamilton Sign By-Law, respecting Election Signs", attached as Appendix "A" to Report FCS22003/LS22006/PED22018, which has been prepared in a form satisfactory to the City Solicitor, be approved and enacted by Council;
- (b) That subject to the approval of Recommendation (a) of Report FCS22003/LS22006/PED22018, Council approve and enact the draft By-Law "To

Amend By-law 17-225, a By-law to Establish a System of Administrative Penalties”, attached as Appendix “B” to Report FCS22003/LS22006/PED22018, which has been prepared in a form satisfactory to the City Solicitor; and,

- (c) That the contents of Appendix “C” to Report FCS22003/LS22006/PED22018, remain confidential.

EXECUTIVE SUMMARY

In advance of the 2022 Municipal and Provincial Elections, Staff is recommending that amendments to the Hamilton Sign By-law, being By-law No. 10-197 (the “Sign By-law”) be enacted to establish a separate Schedule respecting Election Signs, providing greater clarity and accessibility for candidates, third party advertisers and members of the public. While most of the provisions related to election signs are unchanged, the proposed amendments to the Sign By-law include language clarifying permissible displays, enhancements to relevant definitions, regulations pertaining to third party advertising, and regulations respecting vehicle signs.

Alternatives for Consideration – Not Applicable

FINANCIAL – STAFFING – LEGAL IMPLICATIONS (for recommendation(s) only)

Financial: None

Staffing: None

Legal: Please see Appendix “C” to Report FCS22003/LS22006– Confidential Legal Opinion.

HISTORICAL BACKGROUND (Chronology of events)

The City of Hamilton enacted By-law 02-368, being a By-law to regulate Election Signs in the City of Hamilton, on December 11, 2002. This by-law was introduced to consolidate existing by-laws regulating Election Signs under the newly amalgamated City of Hamilton. The by-law was subsequently amended in 2004 in response to the 2003 municipal election, with amendments largely focusing on refining roles and responsibilities and clarifying notification and infraction procedures.

In 2006, By-law 02-368 was repealed and provisions for elections signs were included under a broader Sign By-law No. 06-243, being A By-Law Respecting Signs and Other Advertising Devices Within the City of Hamilton. Following a comprehensive review, By-law 06-243 was repealed in August 2010 and replaced by the Sign By-law.

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Elections signs are currently governed under section 5.9 of the Sign By-law. Section 5.9 also incorporates the General Prohibitions and Regulations set out in section 4.1 and Prohibited Signs set out in section 5.1. While there have been minor modifications and housekeeping amendments since its enactment in 2010, the section pertaining to elections signs has remained unchanged.

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

The City of Hamilton is authorized to pass by-laws respecting signs pursuant to paragraph 10 of subsection 10(2) of the *Municipal Act, 2001*.

Signs, including Election Signs, are a form of expression protected under section 2(b) of the *Canadian Charter of Rights and Freedoms* (the “*Charter*”). Section 1 of the *Charter* permits the imposition of “reasonable limits” on the rights and freedoms guaranteed under the *Charter*. Attached as Appendix “C” to this Report is a confidential appendix outlining *Charter* considerations.

Enactment of the proposed By-law To Amend By-law No. 10-197, the Hamilton Sign By-Law, respecting Election Signs will require the amendment of By-law No. 17-225, the By-law to Establish a System of Administrative Penalties.

RELEVANT CONSULTATION

Internal Staff from By-Law Services, Financial Services and Transportation Planning and Parking have been consulted in the review of the By-law.

Additionally, staff consulted externally with municipal counterparts through the Municipal Elections Working Group and assessed Election Sign By-laws from municipalities across the province.

ANALYSIS AND RATIONALE FOR RECOMMENDATION

In advance of each municipal election, staff review and consider existing policies and procedures related to elections to ensure clarity, effectiveness, and alignment to legislation, and also to identify potential areas for improvement or enhancement. Through recent review, staff have identified the Sign By-law as it pertains to election signage, as a key document requiring updating in advance of the 2022 Provincial and Municipal Elections.

Since the enactment of the Sign By-law there have been changes to the *Municipal Elections Act, 1996* (the “*MEA*”), including the regulation of third-party advertisers and enhancements to the types and mediums of signs used within municipal campaigns. While the majority of the content in the Sign By-law, as it pertains to Election Signs, remains static and relevant, this has resulted in a need to update aspects of the existing

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Sign By-law to modernize the content and ensure that the by-law aligns with rights guaranteed under the Charter.

In the proposed By-Law To Amend By-law No. 10-197, the Hamilton Sign By-Law, respecting Election Signs, regulations respecting Election Signs have been separated from the main body of the Sign By-law and included as a Schedule to the Sign By-law. While these proposed amendments to the Sign By-law maintain many of the regulations from the existing Sign By-law, a separate, stand-alone Schedule would provide greater clarity to, and ease of reference for, members of the public, candidates and third-party advertisers throughout the campaign period, while maintaining connection to the existing Sign By-law and avoiding duplication.

While retaining the general prohibition against Election Signs on City Property, apart from posterage in designated areas, the draft By-law Amendment contains additional language permitting the holding of a hand-held Election Sign; the display of an Election Vehicle Sign while affixed to a vehicle that is in use on any street, roadway, or authorized parking space; and the display of an Election Sign on commercial advertising space owned or operated by the City or one of its agencies, boards or commissions.

The draft By-law provides further clarification surrounding Third Party requirements for signage. Amendments to the *Municipal Elections Act* created a regulatory framework for Third Party advertising including requirements for contact information to be included on Third Party advertisements. These proposed amendments incorporate this requirement to enhance the ability of staff to identify and contact sign owners should there be a violation of the By-law.

Efforts have additionally been made to enhance the Sign By-law respecting Election Signs to consider additional signage and mediums that were not specifically identified in the current Sign By-law. The definition of Election Sign has been expanded to consider more mediums and approaches including election vehicle signs, which have been specifically addressed within the draft by-law amendment; and election bumper stickers which have been excluded from application of the By-law. By specifically enhancing the definition of election sign and addressing alternate forms of election signage, these amendments intend to limit grey areas and provide greater clarity.

ALTERNATIVES FOR CONSIDERATION

n/a

ALIGNMENT TO THE 2016 – 2025 STRATEGIC PLAN

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Community Engagement & Participation

Hamilton has an open, transparent and accessible approach to City government that engages with and empowers all citizens to be involved in their community.

Our People and Performance

Hamiltonians have a high level of trust and confidence in their City government.

APPENDICES AND SCHEDULES ATTACHED

Appendix “A” - draft By-Law “To Amend By-law No. 10-197, the Hamilton Sign By-law respecting Election Signs”

Appendix “B” - draft By-Law “To Amend By-law 17-225, a By-law to Establish a System of Administrative Penalties”

Appendix “C” - Confidential Legal Opinion