



**City of Kingston
Report to Council
Report Number 18-086**

To: Mayor and Members of Council
From: Denis Leger, Commissioner, Corporate & Emergency Services
Resource Staff: John Bolognone, City Clerk
Date of Meeting: March 6, 2018
Subject: Proposed Amendments to By-Law 2014-16, A By-Law to Regulate Election Signs in the City of Kingston

Executive Summary:

By-Law 2014-16, "A By-Law to Regulate Election Signs in the City of Kingston" (hereinafter referred to as the Election Signs By-Law), regulates the placement of election signs in Kingston.

Information Report AP-17-07, Annual Review of City By-Laws, identified the Elections Signs By-Law for review.

In addition, the Province has passed Bill 181, the *Municipal Elections Modernization Act*, which has introduced legislative amendments relating to election signs which will be in effect for the 2018 municipal election and necessitates amendments to the Election Signs By-Law.

Recommendation:

That the draft By-law attached as Exhibit A to Report Number 18-086 be presented to Council in order to amend By-Law Number 2014-16, being "A By-Law to Regulate Election Signs in the City of Kingston".

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Authorizing Signatures:

ORIGINAL SIGNED BY COMMISSIONER

**Denis Leger, Commissioner,
Corporate & Emergency
Services**

ORIGINAL SIGNED BY CHIEF ADMINISTRATIVE OFFICER

Gerard Hunt, Chief Administrative Officer

Consultation with the following Members of the Corporate Management Team:

Lanie Hurdle, Commissioner, Community Services

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Jim Keech, President & CEO, Utilities Kingston

Not required

Desirée Kennedy, Chief Financial Officer & City Treasurer

Not required

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Options/Discussion:

The Election Signs By-Law regulates the placement of election signs in Kingston. The current By-law has been in effect since December 17, 2013 and was enforced in the 2014 municipal election and the 2017 by-election. During the 2014 municipal election, concerns were expressed with respect to the placement of election signs inside properties; namely displayed in windows, outside of the prescribed timelines.

Staff have undertaken a review of the Election Signs By-Law in part because of the concerns regarding the window display of election signs, but also as a result of legislative requirements relating to election signs as set out in the recently approved Provincial legislation, the *Municipal Elections Modernization Act*. These legislated changes will be in force for the 2018 municipal election which will be held on Monday, October 22, 2018.

i. Evaluation of Election Signs Timeframe

Under the current By-law, election signs are permitted from the day following the close of nominations until seven days following the election.

As a result of the passing of the *Municipal Elections Modernization Act* the timelines for filing of nominations has changed. Previously, the first day that nominations could be filed was January 1st and the deadline to file a nomination (Nomination Day) was the second Friday in September. This timeline permitted the display of election signs for approximately 6 weeks.

The first day that nominations can be filed for a regular election has been changed to May 1st and Nomination Day for a regular election will move from the second Friday in September to the fourth Friday in July; which for the 2018 municipal election is July 27th. This timeline would permit the display of election signs for close to 3 months.

Staff reviewed the election sign by-laws from a cross-section of Ontario municipalities to identify when election signs were permitted to be displayed. The earliest date on which election signs were permitted varied from 24 days to 45 days prior to Voting Day, with the average being 30 days prior to Voting Day.

Staff is recommending an amendment to the Election Signs By-Law to implement a period of 30 days for the display of election signs prior to Voting Day. This will aid in striking a balance between providing an appropriate period of time for candidate and/or third party promotion, while reducing the period regarded as visual clutter and opportunities for vandalism.

Currently, the City permits a period of seven days following Voting Day for the removal of election signs. Municipal election sign by-laws across the province are fairly consistent on this issue with the period for removal generally falling within 48 to 96 hours following Voting Day. Staff is recommending an amendment to the Election Signs By-Law to reduce the period of time for removal of election signs from 7 days to 4 days (96 hours).

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The recommended amendments would result in a display period of 35 days consisting of 30 days prior to Voting Day, Voting Day itself, and 96 hours (4 days) after Voting Day.

ii. Election Signs on Vehicles

Many municipalities regulate election signs on vehicles by prohibiting them on a vehicle which is parked or located for the primary purpose of displaying the election sign. Many municipalities also prohibit vehicles displaying any campaign signs from parking at any City facility or, at or adjacent to, any site to be used as a Voting Place. Some municipalities regulate how close a vehicle displaying election signs may be to a Voting Place with the typical distance established at 50 metres.

Staff is recommending an amendment to the Election Signs By-Law to prohibit the display of election signs in or on a vehicle that is parked on, or within 50 metres (measured from the nearest property line) of the property of any premises used as a Voting Place on any Advance Voting Day or any Voting Day.

iii. Amendments to Comply with Changes to the *Municipal Elections Act*

The Province has passed Bill 181, the *Municipal Elections Modernization Act*, which has introduced legislative amendments relating to election signs which will be in effect for the 2018 municipal election. These requirements are as follows:

- Election campaign advertisements (an advertisement in any broadcast, print, electronic or other medium, purchased by or under the direction of a candidate) shall identify the candidate to make it clear who is responsible for the messaging.
- Third party advertising (which would include signs), requires the identification of the registered third party, the municipality where the third party is registered, and a telephone number, mailing address or email address at which the registered third party may be contacted. Previously, third party advertising with respect to municipal elections was unregulated.
- Municipalities are provided with strengthened provisions to effect the removal or discontinuance of advertising where the provisions of the *Municipal Elections Act* (the Act) have been contravened. Where there is non-compliance, the Act explicitly empowers municipalities to require the removal or discontinuance of any advertising that contravenes the requirements in the Act.

As a result of these changes, staff is recommending amendments to the Election Signs By-Law to incorporate definitions of “registered third party” and “third party election signs” in order to incorporate the new regulations around third party advertisers and related election signs erected by third party advertisers.

The “third party election signs” erected by the third party advertisers will need to comply with the City’s regulations respecting election signs, so that third party election signs will be regulated in the same manner as candidate election signs.

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Staff is also recommending amendments consistent with the amended legislation that requires third party advertisers to register with the City Clerk prior to being able to display their signs, and, to require third party election signs to contain valid and up-to-date contact information to identify at least one individual responsible for the display of the sign.

The City's elections webpage will include a third party section. This space will include the registration form template (to be available from the Ministry of Municipal Affairs in April 2018), the guide or package for advertisers, a link to the City's Election Signs By-Law and the list of those who have registered as a third party advertiser.

iv. Other Considerations

As indicated earlier in this report, concerns were raised during the 2014 municipal election regarding the visible display of election signs inside private property, outside of the prescribed timelines for the display of election signs.

Research indicates that the large majority of municipalities do not regulate signs inside private property (namely that which is displayed in windows). In keeping with best practices amongst other municipalities, staff is not recommending any amendments to the Election Signs By-Law with respect to regulation of signs inside private property.

Existing Policy/By-Law:

By-Law Number 2014-16, "A By-Law to Regulate Election Signs in the City of Kingston"

Municipal Elections Modernization Act

Municipal Election Act, 1996

Notice Provisions:

None

Accessibility Considerations:

None

Financial Considerations:

None

Contacts:

John Bolognone, City Clerk, 613-546-4291, extension 1247

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Other City of Kingston Staff Consulted:

Janet Jaynes, Deputy City Clerk

Susan Nicholson, City Solicitor and Director of Legal Services

Paige Agnew, Director, Planning, Building and Licensing & Enforcement

Lacricia Turner, Manager, Licensing & Enforcement

Exhibits Attached:

Exhibit A – Draft By-Law 2018-XXX, A By-law to Amend By-Law Number 2014-16, “A By-Law to Regulate Election Signs in the City of Kingston”

By-Law Number 2018-XXX**A By-Law to Amend By-Law Number 2014-16, "A By-Law to Regulate Election Signs in the City of Kingston"**

Passed: Meeting date, 2018

Whereas the *Municipal Act, 2001*, S.O. 2001, c. 25, Section 99, gives the Council of The Corporation of the City of Kingston, the authority to pass by-laws with respect to the regulation of signs within the municipality; and

Whereas Council passed By-law Number 2014-16, "A By-Law to Regulate Election Signs in the City of Kingston", on December 17, 2013 to regulate the placement of election signs in the City of Kingston; and

Whereas the Province has passed Bill 181, the *Municipal Elections Modernization Act*, which has introduced legislative requirements relating to election signs, and filing of candidate nomination papers which will be in effect commencing with the 2018 municipal election; and

Whereas Council deems it advisable to amend By-law Number 2014-16 to include new or revised provisions respecting the placement of election signs in the City of Kingston;

Therefore Be It Resolved That the Council of the Corporation of the City of Kingston hereby enacts as follows:

1. That By-law Number 2014-16, as amended, is further amended as follows:
 - 1.1 Add the following as a new sub-section 1(g) and renumber the subsequent sub-sections accordingly:

"(g) "Registered Third Party" means an individual, corporation or trade union that is registered under Section 88.6 of the *Municipal Elections Act, 1996*;
 - 1.2 Add the following as a new sub-section 1(i) and renumber the subsequent sub-sections accordingly:

"(i) "Third Party Election Sign" means any Election Sign which has been erected or displayed without the authorization, direction or involvement of a Candidate;"
 - 1.3 Add the following as a new sub-section 1(j) and renumber the subsequent sub-section accordingly:

(j) "Vehicle" means a motor vehicle, trailer, traction engine, farm tractor, machine used for road construction or maintenance, bicycle, and any other vehicle drawn, propelled, or driven by any kind of power, including muscular power;

1.4 Amend Section 3 to read as follows: “Timing of the Erection of Election Signs”

“3. No Election Sign shall be erected or displayed prior to the issuance of writs for a provincial or federal election, or prior to thirty (30) days immediately preceding the day of a municipal election.”

1.5 Add the following under “Election Sign Placement – Restrictions” as a new Section 8(f):

“(f) No Election Sign shall be visible in or on a vehicle that is parked on, or within 50 metres (measured from the nearest property line) of the property of any premise used as a Voting Place on any election Voting Day, including Advance Voting Days.”

1.6 Add the following new Section 9 with the heading “Third Party Election Signs” and renumber the subsequent Sections accordingly:

‘9. Third Party Election Signs

- (a) Third party advertisers shall be required to register with the City Clerk prior to the display of Election Signs.
- (b) Third Party Election Signs shall contain valid and up-to-date contact information, including the name of the registered third party, the municipality where the third party is registered, and a telephone number, mailing address or email address at which the registered third party may be contacted, in order to identify at least one individual responsible for the display of the sign.
- (c) Third Party election signs displayed by third party advertisers shall comply with the City’s regulations respecting Election Signs.

1.7 Amend Section 10 “Removal of Election Signs” to read as follows:

“All Election Signs shall be removed within ninety-six (96) hours (four (4) days) of the day on which the election is held.”

2. This By-Law shall come into force and take effect on the date of its passing.

Given First and Second Readings Month XX, 2018

Given Third Reading and Passed Month XX, 2018

John Bolognone
City Clerk

Bryan Paterson
Mayor