



**STAFF REPORT  
ACTION REQUIRED**

**Amendments to Chapter 693, Signs, Article II,  
Election Signs**

<b>Date:</b>	August 1, 2014
<b>To:</b>	Licensing and Standards Committee
<b>From:</b>	Executive Director, Municipal Licensing and Standards
<b>Wards:</b>	All
<b>Reference Number:</b>	P:\2014\Cluster B\MLS\LS14015

**SUMMARY**

---

This report responds to direction from the Licensing and Standards Committee at its meeting of May 26, 2014, which requested a review of the current by-law governing election signs, including a scan of other municipalities. This review has identified a number of recommended amendments to Chapter 693, Signs, Article II, Election Signs, which will address concerns previously raised by the Ombudsman and the Auditor General and will further address a number of administrative challenges experienced with the current by-law.

The proposed amendments include changes to the time period for which election signs may be erected or displayed; where election signs may be placed; fees, removal and storage of seized election signs; the waiver of fees/affidavits process; and the acceptable methods of payment for amounts owed to the City for election sign-related charges.

City Clerk's Office and Legal Services were consulted in the preparation of this report.

**RECOMMENDATIONS**

---

**The Executive Director, Municipal Licensing and Standards recommends that:**

1. City Council approve amendments to Toronto Municipal Code, Chapter 693, Signs, Article II, Election Signs, substantially in accordance with the administrative design contained in Attachment 1, attached to this report.
2. City Council approve amendments to Appendix C, Schedule 12, of Toronto Municipal Code, Chapter 441, Fees and Charges, substantially in accordance with the administrative design contained in Attachment 2, attached to this report.

3. City Council authorize the City Solicitor to prepare the necessary Bills for introduction in Council to implement the above recommendations, subject to such stylistic and technical changes as may be required.

### **Financial Impact**

The full-time equivalent (FTE) of approximately 30 Municipal Standards Officers are dedicated to enforcement of the election signs by-law for a four week period. The cost to Municipal Licensing and Standards (ML&S) for salary and benefits is \$207,123.

A flat fee of \$250.00 per candidate to cover the costs of removal and storage of improperly displayed election signs will partially off-set the division's costs for administration and enforcement. For the upcoming 2014 Municipal Election, there are presently a total of 409 registered candidates, of which 65 are candidates for mayor, 250 are candidates for councillor, and 94 are candidates for trustee. If all candidates intend to erect or display election signs, the potential revenue for 2014 will be \$102,250.

The proposed changes to the by-law as described in Attachment 1 will reduce administrative expenses incurred by the City for the election signs by-law. Under the current by-law, the City incurs expenses for assessing fees, processing refunds, and collecting monies owed to the City. These expenses are incurred by various divisions including ML&S; Policy, Planning, Finance and Administration; and Legal Services.

Staff will report on any impacts to the 2014 operating budget during the 2015 operating budget process.

The Deputy City Manager and Chief Financial Officer has reviewed this report and agrees with the financial impact information.

### **DECISION HISTORY**

At its meeting of May 26, 2014, Licensing and Standards Committee requested the Executive Director, Municipal Licensing and Standards, to review the City's existing election sign by-law and report to the August 18, 2014 Licensing and Standards Committee meeting on any recommended changes.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2014.LS28.5>

### **ISSUE BACKGROUND**

Election signs have always been an integral part of any election process be it municipal, provincial or federal. Candidates use signs to create awareness for themselves and to promote their campaign.

However, over the years, a number of issues have been raised with respect to election signs and the City's existing election signs by-law. Issues have been identified by staff in ML&S, the City Clerk's Office and Legal Services, based on their experiences in previous elections. The Ombudsman and the Auditor General have also expressed

specific concerns with the respect to the 2010 and 2006 Municipal Elections, respectively. Issues of primary concern include the significant amount of time and expenses incurred to administer and enforce the by-law including collecting election sign deposits, assessing fees, and attempting to collect monies owed to the City – often only to refund/waive the amounts charged to candidates, the appropriateness of the waiver of fees/affidavits process, and the need for clear and simple provisions around the erection or display of election signs.

In 2010, ML&S removed over 2,500 election signs during the municipal election. Enforcement was complaints-based. This compares to 2006, when ML&S removed over 10,000 signs based on pro-active enforcement of the election signs by-law.

## **COMMENTS**

Staff examined the City's existing election signs by-law as well as the election signs by-laws of neighbouring municipalities. Attachment 3 contains a jurisdictional scan of by-laws for Toronto, Brampton, Hamilton, Mississauga, Ottawa, Pickering and Vaughan. All by-laws have time restrictions, size restrictions and fees for removal of signs by the municipality. Only the City of Toronto has a fee waiver process. Vaughan recently approved a non-refundable fee for displaying election signs.

On July 16, 2014, ML&S hosted a public consultation session on the review of the election signs by-law. ML&S invited candidates registered in the 2014 Municipal Election, current members of City Council, and the general public. Approximately 30 people attended the consultation. Issues discussed included: amending the by-law too close to the municipal election; acknowledgement of the City's cost for administering and enforcing the by-law; sign theft, sabotage and placement of signs; and the need for clear communication of the changes.

Based on staff's findings, recommendations are being proposed that intend to clarify terminology, provide new definitions and simplify and standardize the regulations governing election signs. The recommendations aim to strike an appropriate balance between candidate promotion and the freedom of expression rights for individuals to share political messaging, as well as the public's expectation for an attractive and well maintained streetscape and public realm.

## **Recommended Key By-Law Amendments**

### **1. Election Sign Deposit, Fees and Waiver of Fees Process**

Currently, Chapter 693 requires each candidate to pay an election sign deposit of \$250, prior to any election signs being displayed on public property. The deposit is refundable subject to any deductions made to cover the removal and storage costs for election signs displayed in contravention of Chapter 693. Removal is charged \$25 per sign. Storage is charged as the greater of a) \$2 per sign per day or part thereof, or b) \$0.50 per square metre of total sign face area per day or part thereof, and the fees are applied to the

candidate whom the sign relates. In cases where the costs incurred by the City to remove and store such signs exceed the election sign deposit paid by the candidate, or where no deposit was paid, the candidate is required to pay the balance owing within 30 days after the election date, and such fees are not subject to waiver. Any unpaid fees may then be subsequently recovered by the City through legal action or in like manner as municipal taxes.

Currently under Chapter 693, certain fees may be waived, in whole or part, in what was intended to be limited circumstances. Whether removal fees are eligible to be refunded requires a determination of the location of the sign, and the amount of fees charged. Storage fees are not refundable.

A recurring issue has been the appropriateness of the current provision which permits the waiver of certain fees if candidates submit a sworn statement to the City Clerk indicating that "neither the candidate nor to the best of the candidate's knowledge, any person acting on behalf of the candidate was responsible for the unlawful erection or display of the election sign". The sworn statement in the form of a signed affidavit, results in the fees charged to a candidate for the removal of signs from public property, subject to the deposit not having been exceeded, being waived.

Over the years, staff in ML&S have advised that the practice of collecting election sign deposits, assessing and tracking fees, invoicing and attempting to collect monies owed, and then refunding monies, have required a significant amount of staff time and resources on the part of ML&S, as well as other divisions including the City Clerk's Office, Legal Services, and Policy, Planning, Finance and Administration. The resources required to adequately enforce the fee provisions of Chapter 693, routinely exceed the resources available to the City. Additionally, the resources expended to administer and enforce Chapter 693, far exceed the revenues the City collects.

Additionally, in past elections, it appeared as though some candidates were simply relying on the printed wording of the standard affidavit form to get their fees automatically waived. This has been a concern, raised in the past by both the Ombudsman as well as the Auditor General. In the 2010 Municipal Election, the City waived \$28,150.00 in fees, and in previous years, the amounts written off as a result of this process have also been significant.

Staff propose that the current deposit and waiver process should be replaced with a more efficient system.

Staff propose that a new, \$250.00 fee, to cover the costs of removal and storage of improperly displayed election signs be charged to each candidate who wishes to display election signs outdoors on public and/or private property. This fee would partially cover the costs to the City of providing these services, which are of value to all candidates. This new non-refundable fee, will replace the current \$250.00 refundable deposit.

Effective enforcement of Chapter 693 provides a benefit to each candidate to ensure that their freedom of expression is not limited and ensures the public interest in limiting sign clutter with the potential visual impacts and public safety concerns which may arise from improperly erected election signs.

The new "flat fee" will result in the costs of enforcement being shared equally by the class of users who receive the direct benefit, with a portion being funded by general revenues, reflecting the important benefit of this program for the public at large.

Chapter 693 will establish that prior to candidates erecting or displaying election signs outdoors on public and/or private property, candidates will be required to pay the new "flat fee" for enforcement services which will be used to off-set the City's costs for administering and enforcing Chapter 693, during the time period in which election signs are permitted to be displayed under Chapter 693 (the "Election Sign Period").

Additionally, it is proposed that the fees to cover the removal and storage cost of election signs on a per sign basis be established to cover the costs outside of the Election Sign Period. A flat fee model is not a practical method to obtain cost recovery in this instance because the City does not have a set complement of enforcement staff assigned to the enforcement of Chapter 693 outside of the Election Sign Period. It is proposed that a per sign fee of \$25.00 be implemented to cover the costs of removal and storage of improperly erected signs from public and/or private property outside of the Election Sign Period.

The current storage rates for improperly displayed election signs, calculated as the greater of a) \$0.50 per square metre of total sign face area per day or b) \$2 per sign per day, will be deleted.

Therefore, when election signs are erected or displayed in contravention of Chapter 693, during the Election Sign Period, the City will remove the signs, store them, and allow retrieval by the candidates to whom the signs relate, with the costs being covered by the revenues generated by the new \$250.00 flat fee. However, for any signs that have been displayed prior to the Election Sign Period (i.e. 21 days prior to voting day), or have not been removed by the end of the Election Sign Period (i.e. more than 72 hours after the completion on voting on election day), the candidate will be assessed a per-sign fee of \$25 for the City's costs to remove and store the election signs. It is believed that this process will result in a more efficient and effective fee structure to cover the costs of removing and storing improperly displayed election signs.

## **2. Storage of Election Signs**

Presently, when a sign is removed as a result of being erected or displayed in contravention of Chapter 693, the City is required, with an exception for signs made of paper or other lightweight materials, to store the sign for a minimum of 30 days after the removal. The sign owner or the owner's agent may retrieve the sign, upon the payment of any outstanding amounts owing under Chapter 693, with an exception for circumstances

where election signs have been seized for purposes of being used in relation to prosecutions for violations of Chapter 693. This time-frame, as it varies based on the time that the sign is removed, and the volume of signs removed, creates a variety of administrative burdens concerning the notification to sign owners, and the tracking and storage of election signs. Therefore, to increase the efficiency of administering Chapter 693, amendments to the storage requirements are being proposed.

Staff propose that the timeframe for storage of improperly displayed election signs be changed. Signs removed by the City during the Election Sign Period shall be stored until the end of the Election Sign Period. Signs removed by the City outside of the Election Sign Period shall be stored for 72 hours after notice is provided to the candidate to whom the sign relates.

Staff have established business processes which will allow staff to inventory the signs removed at the end of each business day, and to notify candidates concerning the election signs that have been removed by the City for being improperly displayed. Staff will be able to notify affected candidates, by providing notice by e-mail, fax or registered mail to the candidate's designated contact address within 24 hours of inventorying the election sign removed. As a result, reducing the timeframe which the City stores removed election signs will not adversely impact candidates, while assisting in minimizing the City's costs associated with storage.

Affected candidates will have the opportunity to retrieve their election signs within this timeframe, and any signs not retrieved may be recycled, destroyed or otherwise disposed of without notice and without compensation to the owner of the sign.

### **3. Time Period for when Election Signs may be Erected or Displayed**

The City regulates the dates when election signs may be erected or displayed, with Chapter 693 currently specifying that they shall not be erected or displayed for a federal or provincial election until the writ of election is issued, and for a municipal election, until 25 days prior to voting day.

Staff recommend standardizing the time period so that election signs may not be erected or displayed until 21 days prior to voting day, for all federal, provincial, and municipal elections. Staff also recommend that a provision be added so that where the day 21 days prior to voting day is a date of cultural or religious significance, election signs may not be erected or displayed until the following day. Dates of cultural or religious significance will be indicated in the annual schedule of meetings adopted by Council and published by the City Clerk as required by Chapter 27, Council Procedures.

At its meeting of May 26, 2014, Licensing and Standards Committee recommended that the period for which election signs may be erected or displayed be amended to three weeks — that is, 21 days prior to election day.

Enforcement of the election signs by-law during an election period is a considerable undertaking. Existing enforcement resources are reassigned to handle the dedicated enforcement of the election signs by-law, meaning that resources during this period are often strained, making the enforcement of other City by-laws and the services normally provided much more challenging. A reduction in the period of time to display election signs would lessen the impacts to services to residents.

#### **4. Campaign Office Sign**

Currently, Chapter 693 provides specific permissions and restrictions concerning the display of election signs on campaign offices. Currently, such first party or identification signs on campaign offices are regulated by whatever applicable sign by-law applies to the sign structure in question.

Due to the variety of buildings which may be utilized as a campaign office, it is proposed that specific provisions concerning the display of "campaign office signs" be added to Chapter 693. It is proposed that a definition be added to distinguish a "campaign office sign" from an election sign. The definition will specify that a campaign office sign may contain sign copy which solely identifies the name of the candidate and the location of candidate's campaign office, and shall not contain sign copy dedicated to electioneering for the candidate. Campaign office signs should also be affixed to the building subject to all applicable by-laws and permits obtained. Provisions concerning the requirements for such displays shall be added to Chapter 693.

There have been issues raised about the interpretation of Chapter 693 concerning election signs which are located on campaign offices, and the display of a first party identification sign identifying a location as a functioning campaign office. Adding a definition of a campaign office sign will make it clear when these signs may be erected or displayed and make it clear that they are not election signs.

#### **5. Placement of Election Signs**

Chapter 693 sets out where election signs are permitted and not permitted to be erected or displayed, with guidelines respecting private and public property.

Chapter 693 currently stipulates that all election signs erected or displayed, whether on private and/or public property, must not interfere with the safe operation of vehicular traffic and the safety of pedestrians. A provision should be added to Chapter 693 requiring that election signs erected or displayed must not obstruct visibility or block sightlines for pedestrians, cyclists, and motorists. As the safety of pedestrians, cyclists and motorists is a fundamental consideration when erecting or displaying election signs, staff recommend that the by-law be amended to strengthen the safety provisions in the by-law.

Chapter 693 was recently amended to provide explicit provisions concerning the display of election signs on dedicated advertising spaces operated by the Toronto Transit

Commission (TTC). In previous elections, staff received numerous inquiries concerning the display of election signs on structures on public highways, such as "street furniture" and "public utility poles". Recognizing that candidates may wish to display election signs on such structures, staff are proposing provisions similar to the provisions concerning TTC dedicated advertising spaces. This will allow the display of election signs on street installation dedicated advertising spaces provided that they meet the conditions of any agreement between the owner or operator of the advertising space and the City.

## **6. Payment Methods**

Chapter 693 currently requires that the deposit or other debts owed to the City may only be paid by cash, certified cheque, or money order. With the increasing use of debit and credit cards, staff propose that these options of debit or credit card be added to the permitted methods of payment for charges or debts owed to the City under Chapter 693.

The City Clerk's Office already accepts debit and credit for candidates paying their filing fees, so it is proposed that the same payment options be available for candidates paying the fees and charges required under Chapter 693.

The proposed amendments in this report will reduce the administration burden to the City and create a simpler, more efficient process in administering and enforcing the Election Signs by-law.

## **CONTACT**

Mark Sraga  
Director, Investigation Services  
Municipal Licensing and Standards  
Tel: 416-392-7633  
Email: msraga@toronto.ca

## **SIGNATURE**

---

Tracey Cook, Executive Director  
Municipal Licensing and Standards

## **ATTACHMENTS**

Attachment 1: Amendments to Chapter 693, Signs, Article II, Election Signs  
Attachment 2: Amendments Chapter 441, Fees & Charges, Appendix C, Schedule 12  
Attachment 3: Summary of Jurisdictional Research