



STAFF REPORT ACTION REQUIRED

Enforcement Strategy for Chapter 694 of the Municipal Code

Date:	December 8, 2014
To:	Planning and Growth Management Committee
From:	Chief Building Official and Executive Director, Toronto Building
Ward:	All
Reference Number:	PG15001

SUMMARY

This report responds to direction for staff to report back to the Planning and Growth Management Committee on a strategy to improve the enforcement of Chapter 694 of the Municipal Code, Signs, General ("Chapter 694").

The direction related to a perceived increase in the number of illegal signs in some areas of the city, the majority of which are used to identify and advertise a business at the premise where the sign is located. These signs are defined by Chapter 694 as first party signs. Investigations indicate that a significant proportion are being displayed or modified without a sign permit.

Staff have found that many business owners in the city are not aware of Chapter 694 and the need for sign permits. Based on experience in enforcing the regulations, most business owners seem willing to comply with Chapter 694 and either obtain the necessary sign permits or remove the sign once they are aware of the requirements. As a result, this report recommends a combination of measures to enhance communications with business owners and to provide a more effective enforcement response to illegal signs.

This report also recommends that City Council request the Province to amend the *City of Toronto Act, 2006* to remove the limitation in Subsection 110(1) preventing the application of Chapter 694 to signs lawfully displayed on the day the bylaw comes into force. This amendment would result in much more consistency with the current regulations, for all signs in the city.

RECOMMENDATIONS

The Chief Building Official and Executive Director, Toronto Building recommends that:

1. City Council amend the City of Toronto Municipal Code Chapter 694, Signs, General, substantially in accordance with the draft amendments attached as Appendix 1 to this report;
2. City Council request that the Province of Ontario amend the *City of Toronto Act, 2006* to remove the limitation contained in Subsection 110(1) that a City by-law respecting advertising devices, including signs, does not apply to an advertising device that was lawfully erected or displayed on the day the by-law comes into force unless the advertising device is not substantially altered;
3. The Chief Building Official and Executive Director, Toronto Building report back to the Planning and Growth Management Committee in the Spring of 2017 with an update on ongoing Chapter 694 Enforcement efforts; and,
4. The City Solicitor be authorized to prepare the necessary Bills for introduction in Council to implement the above recommendations, subject to such stylistic and technical changes to the draft bills as may be required.

FINANCIAL IMPACT

The recommendations in this report have no financial impact.

DECISION HISTORY

MM 55.36 - Sign By law Enforcement

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2014.MM55.36>

City Council at its August 25 to 28, 2014 meeting requested the Chief Building Official and Executive Director, Toronto Building to report to the first 2015 meeting of the Planning and Growth Management Committee on modifications to improve Toronto Building's existing enforcement efforts concerning first party signs including a review of the use of issuing certificates of offence under Part 1 of the *Provincial Offences Act*, available Part 3 enforcement tools, and any amendments to Chapter 694 required to expand the available enforcement tools including changes to the minimum fines in Chapter 694.

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ISSUE BACKGROUND

There are two classes of signs in the city: first party and third party. First party signs are used to identify businesses, products and services that are available at the same location as the sign. Third party signs are used to advertise businesses, products and services that are not available at the same location as the sign.

First party signs represent the vast majority of signs throughout the city, whereas third party signs are limited largely to Commercial and Employment areas. Staff estimate that there are approximately 148,000 signs across the city. Of those, approximately 97% are first party, with the remaining 3% being third party.

First party signs also represent the greatest number of sign permit applications. Since 2010, there have been 3,750 sign permit applications received. Of those, 3,650 (97.3%) were for first party signs and 100 (2.7%) were for third party signs.

Since 2008, the focus of public complaints and enforcement has shifted from third party to first party signs. In 2008 (the year prior to the adoption of Chapter 694), complaints related to third party signs represented approximately 70% of the complaints received, with 30% of complaints being about first party signs. By 2014, the number of third party sign complaints represented only 20% of the total complaints, with the remaining 80% of complaints relating to first party signs.

This shift is primarily due to the Sign Bylaw Unit's efforts to inventory all third party signs. Through that process, these signs have been determined to either comply with the requirements of the applicable sign bylaw or are in some stage of the investigation and enforcement process.

In addition to first party sign complaints representing the majority received by the Sign Bylaw Unit, a number of investigations and an analysis of first party signs located on Yonge Street between Highway 401 and Steeles Avenue ("North Yonge Study Area") has also been completed at the request of local councillors.

As a result of these investigations and analysis, it is estimated that the rate of non-compliance among first party signs is as high as 70 percent in this area, or approximately 1,900 first party signs that either do not have sign permits or are not in compliance with issued sign permits.

COMMENTS

The increase in illegal first party signs is due in part to a decrease in the cost of digital and large-format print technologies. A business owner can now design a large banner, have it printed at local copy centres or print shops and install it themselves. Small digital signs have become increasingly affordable and can now be purchased, programmed and installed by a business owner.

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In the context of a focussed investigation into a large number of signs in the North Yonge Study Area, the average time from first observation to either the removal of a sign by the owner, or a charge being laid, was approximately 3.5 hours. At this rate, it would take 6,650 hours or 4.3 years for one Full Time Equivalent ("FTE") to follow the steps usually required to complete the investigation process for the estimated 1900 signs in place without the required approvals. Where compliance is not forthcoming, significantly more time would be required for follow-up investigation and court proceedings.

Given the level of non-compliance and the increasing number of first party signs throughout the city, combined with the staff resources that would be required to pursue enforcement on a sign-by-sign basis, the following is proposed in order to more efficiently address this situation:

- Develop a communication strategy for Sign Bylaw Unit staff to engage local businesses, Business Improvement Areas, Ratepayer Groups and other associations to educate business owners about the requirements of Chapter 694;
- Expand the enforcement tools available for Sign Bylaw Unit Staff by introducing the use of Part 1 Tickets and amending the minimum fine amounts in Chapter 694; and
- That City Council request the Province to eliminate Subsection 110(1) from the *City of Toronto Act, 2006* and allow the city to pass bylaws that could be applied to existing signs.

Communication Strategy

Staff have found that most business owners are willing to comply with the provisions of Chapter 694; the main challenge is that many are not aware of Chapter 694 and the extent of sign regulations in the city.

Working with Strategic Communications, staff are developing a comprehensive communications strategy to inform the business community about Chapter 694 and to encourage them to obtain the necessary sign permits before installing a sign.

While the target audience would be business owners, owners of commercial and industrial buildings, Business Improvement Areas ("BIAs"), and Business Associations it would also be important to inform the public about Chapter 694, particularly what they can do if they see a sign that they feel is not in compliance or may be unsafe.

The Communication Strategy includes:

- Creating simple and plain language information and instructions for enforcement staff to distribute to business owners as part of the investigation process;
- Providing BIAs and Industry Associations with information to incorporate into newsletters that they send out to their membership;
- Working with Ratepayer Associations to inform them of Chapter 694 and what steps to take if they have a complaint or an inquiry about a potentially illegal sign;

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- Speaking directly to BIAs and their members on Chapter 694 and why sign permits are required; and,
- Working with staff from Municipal Licensing and Standards to identify opportunities in the Business Licensing process for the distribution of information about Chapter 694 and the need for sign permits.

This Communication Strategy is expected to be completed early in 2015 and rolled out over the course of the year.

Part I Tickets

Through experience with the enforcement of Chapter 694, several offences have been identified that may be more effectively enforced through the issuance of Certificates of Offence in accordance with Part I of the *Provincial Offences Act* ("Part I Tickets").

Part I Tickets can be issued on site at the time an offence is identified. The issuance of a ticket with a modest fine has, in other areas of law enforcement, proven to be an effective strategy which has an immediate impact.

The current minimum fine in Chapter 694 is \$500. While this amount is a suitable minimum for a number of offences, for the purpose of issuing Part I Tickets, the set fine should be lower. It is recommended that the minimum fines for constructing, modifying or restoring a first party sign without a sign permit be reduced to \$250.

This amount has been recommended based a review of other Part I fines for Building Code, Business Licensing and Property Standards offences which typically range between \$55 and \$500.

There are three offences that would be particularly suited to the issuance of Part I Tickets:

- First party Sign constructed and displayed without a valid sign permit;
- First party Sign modified without a valid sign permit; and,
- First party sign restored without a valid sign permit.

In exploring the use of Part I Tickets, staff believe that they would be of little value in dealing with third party sign offences where larger fines are appropriate.

Part I Tickets are intended to provide the recipient with an immediate indication of a violation and the lower fines typically result in a decision to pay the fine and comply without the need for court proceedings. Higher set fines commonly result in owners requesting a trial in an effort to have the fine reduced, eliminating the efficiency sought through the use of Part I tickets.

Set fines used on Part I Tickets must be approved by the Senior Regional Justice of the Ontario Court of Justice. If Recommendation 1 contained in this report is approved, staff will submit the set fine application for approval.

It should be noted that this reduction in minimum fine amounts does not preclude the Sign Bylaw Unit from seeking increased fines for more substantial or repeated offences to Chapter 694 in the context of a prosecution commenced under Part III of the *Provincial Offences Act*.

Subsection 110(1) of the City of Toronto Act

With respect to the application of Chapter 694 to existing signs in the city, Subsection 110(1) of the *City of Toronto Act, 2006* states:

Advertising devices

110. (1) A City by-law respecting advertising devices, including signs, does not apply to an advertising device that was lawfully erected or displayed on the day the by-law comes into force if the advertising device is not substantially altered, and the maintenance and repair of the advertising device or a change in the message or contents displayed is deemed not in itself to constitute a substantial alteration.

Subsection 110(1) excludes lawfully erected non-conforming signs from the provisions of Chapter 694 unless the sign is substantially altered.

City Council adopted Chapter 694 in 2009 to implement a vision of how signs should look and where they should be permitted throughout the city. Subsection 110(1) has the result of preventing the timely achievement of the goals of Chapter 694 and creates a condition where the vast majority of signs in the city are not required to comply with Chapter 694.

Although existing lawfully non-conforming signs are being altered and replaced under permit, the rate of such change will delay the wide-spread implementation of Chapter 694 and City Council's vision. This is evident when taking into account that there are almost 150,000 signs in the city and an annual rate of replacement of existing signs with signs permitted by Chapter 694 is less than 1,000 locations per year.

Sign By law enforcement is also complicated with respect to signs that are excluded from Chapter 694 due to Subsection 110(1). When commencing an investigation into a sign that may pre-date Chapter 694, investigators must:

1. Confirm the requirements of the applicable sign by-law(s) of the appropriate pre-amalgamation municipality,
2. Locate the historic sign permit issued for the sign (where applicable); and,
3. Determine whether the sign in question is in accordance with the issued sign permit or other requirements of the applicable pre-amalgamation municipalities' sign by-law(s).

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Eliminating Subsection 110(1) would significantly reduce staff time spent searching historic records prior to taking enforcement action.

Consultation and a further report on regulations to address pre-existing signs would be required upon the repeal of Subsection 110(1).

CONTACT

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SIGNATURE

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ATTACHMENTS:

1. Appendix A - Proposed Amendments to Chapter 694, Signs, General,