



**STAFF REPORT
ACTION REQUIRED**

**Sign By-law Enforcement: Potential Amendments to the
*City of Toronto Act, 2006***

Date:	March 25, 2015
To:	Planning and Growth Management Committee
From:	Chief Building Official and Executive Director, Toronto Building
Ward:	All
Reference Number:	PG15003

SUMMARY

This report responds to the January 8, 2015 direction of the Planning and Growth Management Committee for further consideration and consultation on a request for the Province of Ontario to amend Subsection 110(1) of the *City of Toronto Act, 2006* ("COTA"). Currently, Subsection 110(1) ("S.110(1)") prohibits the regulation of existing non-conforming signs, limiting the City's ability to effectively govern all signs under a single by-law.

In February and March 2015, staff conducted four consultation meetings across the city. Attendees included representatives from the outdoor advertising business, Business Improvement Areas, business owners, ratepayers' associations, public space advocates and members of the public. Both the general public and business representatives owning or operating signs generally support having a single set of regulations for the administration of Chapter 694 of the City of Toronto Municipal Code ("harmonized Sign By-Law"). However, staff also heard that many do not wish to see any change which would result in the removal of previously authorized signs that do not conform to the requirements of the harmonized Sign By-Law.

As a result of feedback received throughout the consultation, this report recommends requesting an amendment to S.110(1) of COTA that would enable the City to more effectively govern signs.

An amendment to S.110(1) would enable the City to enforce a single set of regulations for all signs in the city. This would make it easier for the public as well as sign and business owners to understand the regulations and would simplify the administration and enforcement of signage regulations in the City.

Staff Report, Amendments to Subsection 110(1) of COTA

This report also recommends that following an amendment to S.110(1), staff undertake further consultation with stakeholders to obtain input on how the City should govern previously authorized signs that do not comply with the harmonized Sign By-Law.

This report was prepared in consultation with the City Manager's Office.

RECOMMENDATIONS

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

1. City Council request that the Province of Ontario amend Subsection 110(1) of the *City of Toronto Act, 2006*, to provide increased authority for the City to regulate the operation of existing advertising devices, including signs; and,
2. City Council request that, following amendments to Subsection 110(1) of the *City of Toronto Act, 2006*, the Chief Building Official and Executive Director, Toronto Building engage in further consultation with stakeholders and members of the public concerning what regulations should be applied to existing non-conforming signs.

FINANCIAL IMPACT

The recommendations in this report have no financial impact.

DECISION HISTORY

PG 1.2 - Enforcement Strategy for Chapter 694, Signs, General of the Municipal Code (<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2015.PG1.2>)

The Planning and Growth Management Committee requested the Chief Building Official and Executive Director, Toronto Building to report to the April 13, 2015 Planning and Growth Management Committee meeting on a request that the Province of Ontario amend S.110(1); and, on how the City should address existing non-conforming signs if S.110(1) of COTA is amended, as well as undertaking further consideration of the matter and consultation with stakeholders and members of the public on these issues.

ISSUE BACKGROUND

The provisions of S.110(1) create a unique limitation on the authority provided to the City under Subsection 8(2), Paragraph 10 of COTA, to pass by-laws respecting "structures, including fences and signs". The current wording of S.110(1) of COTA prevents City Council from regulating signs which were compliant with the regulations in force at the time subsequent regulations were enacted.

As a result of S.110(1), an estimated 60,000 existing signs are excluded from having to comply with any of the regulations contained in the harmonized Sign By-Law which City Council enacted in 2010, provided that the sign meets three requirements:

1. The sign must have been erected and displayed on the day the harmonized Sign By-law came into force, (April 6, 2010);
2. The erection and display of the sign must have been lawful (compliant with the regulations applicable when it was constructed); and
3. The sign must not be 'substantially altered' subsequent to the date that the harmonized Sign By-Law came into force.

Prior to certain 1983 amendments to the *Municipal Act*, R.S.O. 1980, c.302 all Ontario municipalities had been provided with the authority to choose whether to apply new regulations to signs which were lawfully displayed under a previous by-law. The previous restriction required that a municipality allow five years for a sign to be brought into compliance or removed, if the new by-law were to be applied to previously authorized signs.

Currently, as a result of S.110(1) of COTA, City Council is restricted from requiring previously authorized signs to comply with new signage regulations, including those which could reduce the impact on surrounding communities.

Public Consultation:

Following the January 8, 2015 direction of the Planning and Growth Management Committee, staff held four public and stakeholder consultation meetings across the city. The meetings were attended by business owners, sign companies, members of the public, including ratepayers' association representatives, and public space advocates. In addition to the public consultation, a number of meetings took place with Members of Council.

Throughout the consultation, staff heard several misconceptions about what is required for a sign to be protected by S.110(1) and how the amendment or repeal of S.110(1) could affect existing signs.

One of the biggest misconceptions was that simply having a sign displayed at the time that the harmonized Sign By-Law (or any predecessor by-law) came into effect meant that the sign was protected by S. 110(1) as a previously authorized sign. Staff clarified that a sign is required to have been and continue to be displayed in compliance with the previous by-law requirements (i.e. obtained the necessary sign permits) at the time the harmonized Sign By-Law came into effect.

The largest concern raised at the consultation was that the City would order the removal of existing non-conforming signs, particularly roof signs, which have been prohibited since the 2010 enactment of the harmonized Sign By-Law.

Members of the public expressed concern with signs located close to residential developments. The primary concern was with the brightness of signs and the hours of illumination.

There was general support from the public and the business community for improving the City's ability to enforce and administer the harmonized Sign By-Law, and with having a single set of regulations for all signs, provided that these increased powers were not at the expense of previously authorized signs.

Some felt that the regulation of signs should be a local decision and not provincial. As the signs impact the local community, it was felt that City Council should determine the best way to regulate signs so as to balance the rights of businesses and residents. Despite this, many business owners and sign owners expressed comfort in having a restriction on City Council's ability to regulate previously authorized signs.

COMMENTS

The Impact of S.110(1) on Sign Regulation:

The current wording of S.110(1) has resulted in all sign by-laws prior to the adoption of the harmonized Sign By-Law remaining in force to govern existing, previously authorized, signs. A new by-law cannot regulate previously authorized signs in any way. The harmonized Sign By-Law became an additional layer of regulations as opposed to providing a single set of requirements, applicable to both new and existing signs. As a result of the S. 110(1) limitation on the regulation of existing signs, there are currently over ten by-laws in force to regulate signs, including pre-amalgamation by-laws and subsequent by-laws enacted by City Council.

There are an estimated 60,000 previously authorized signs throughout the city which are excluded from compliance with the harmonized Sign By-Law because they existed before its enactment. This has led to a circumstance where two adjacent signs are often regulated differently.

Comparison with other Canadian Jurisdictions:

As a result of S. 110(1), the City of Toronto has less ability to enact sign regulations to address concerns with existing signage, compared to other major Canadian municipalities (See Table 1).

Canadian provinces vary in the extent to which municipalities can regulate previously authorized signs. Only Ontario and Newfoundland have specific restrictions for municipal authority concerning signs while others allow the regulation of previously authorized signs or have no unique restriction.

It is the recommendation of staff that COTA be amended in order to allow the City of Toronto to govern all signs using the harmonized Sign By-Law. This would also allow the City to repeal old sign by-laws from the former municipalities.

Table 1 – Comparison of Sign Regulations: Toronto, Vancouver and Montreal

Jurisdiction	Ability to Regulate Existing Signs
Toronto <i>(City of Toronto Act, 2006)</i>	Sign By-laws cannot be applied to existing lawfully constructed advertising devices or signs unless they are ‘substantially altered’.
Montreal <i>(Charter of Ville De Montreal)</i>	The City may govern or prohibit the construction, installation, alteration and maintenance of all existing or future signs or billboards.
Vancouver <i>(Vancouver Charter)</i>	The Council may make by-laws for regulating the number, size, type, form, appearance and location of signs, whether projecting into a street or not, and the by-law may contain different provisions for different zones and for different uses within a zone. Council may with a two-thirds vote order the removal of any sign which has been non-conforming for five years or more.

Benefits of Amending S. 110(1) of COTA:

By amending S. 110(1) to allow the City to govern existing previously authorized signs, the following benefits could be realized:

- Sign and business owners would be able to retain previously authorized signs;

- Certain regulations under the harmonized Sign By-Law would apply to all signs in the city, allowing the goals and objectives of the Sign By-Law to be realized on a much larger scale than is currently possible;
- The impact of signs on sensitive land uses could be controlled more effectively; and,
- The harmonized Sign By-Law could be administered and enforced more efficiently and fairly for all stakeholders.

REGULATING EXISTING SIGNS

Additional public and stakeholder consultation is recommended prior to any amendments to the harmonized Sign By-Law being brought forward. However, there are several administrative and enforcement provisions as well as performance standards that could be considered for application to previously authorized signs if S.110(1) were to be amended.

Simplify Sign By-Law Administration

Reporting Requirement:

The City could require sign owners to report existing signs, enabling the creation of an inventory of all signs in the city. Currently, all signs erected since the harmonized Sign By-Law was enacted in 2010 are included in an inventory which is accessible on the City's Open Data website and provides details on each sign. If the inventory included all signs, it would be easier for business owners, the public and staff to determine whether a sign is lawfully existing.

The City could also more easily require sign owners to report changes in ownership. Accurate ownership information enables staff to more quickly address issues associated with the safety or legality of a sign.

Display of a Unique Identifier:

The harmonized Sign By-Law requires that owners of third party signs ("advertising signs") display a unique identifier. This requirement enables staff and members of the public to identify an advertising sign and quickly determine if it is lawful. Of approximately 2,200 advertising signs in the city, only 100 have been issued permits since the enactment of the harmonized Sign By-Law and are required to display the identifier. Should S.110(1) be amended or repealed, the City could require all advertising signs to display an identifier.

Ability to Revoke and/or Cancel Sign Permits:

One of the key tools for the effective administration of sign regulations is the ability to revoke or cancel permits. The harmonized Sign By-Law sets out circumstances whereby a permit could be revoked or canceled, including:

- Where construction has not commenced within six months of permit issuance;
- Where a permit is issued based on false or mistaken information; or,
- Where a Notice of Violation has been issued and the sign has not been brought into compliance within 14 days.

Currently, it is difficult or impossible to revoke older permits because of differing and sometimes limited provisions in the applicable by-law. A single set of revocation requirements would improve the process and allow staff to better manage the inventory of signs and sign permits throughout the city.

Expiration of Sign Permits:

Permits issued under the harmonized Sign By-Law for advertising signs expire after five years and are subject to renewal. This gives the City the ability to consider if changes to the area around a sign should prevent the issuance or renewal of permits. Owners of advertising signs expressed concern that a change to the permit term would represent an economic hardship in their operation of previously authorized signs. It is therefore recommended that if the City were to regulate existing non-conforming advertising signs, that the five-year permit renewal requirement not be applied.

Improvements for Better Enforcement

Given that pre-amalgamation sign by-laws remain in place, it is complicated to enforce by-laws for signs that have been issued permits under previous regulations, but are not in compliance with those permits.

Older sign by-laws have fine levels that are substantially lower than those set out in the harmonized Sign By-Law. For example, the maximum fines that can be levied under the former sign by-laws vary between \$2,000 and \$5,000.

In comparison, the harmonized Sign By-Law allows for minimum daily fines of \$250 for first party signs (“business identification signs”) and \$500 for advertising signs. The court can also impose special fines designed to reduce the economic benefit for an owner continuing to operate an unlawful sign.

The harmonized Sign By-Law also allows the City to remove a sign that is not in compliance with its issued permit if it has not been brought into compliance within 14 days of the issuance of a Notice of Violation. That capability could be applied to all signs.

The differences in fines and enforcement remedies create a situation where a sign that violates a previous sign by-law could be subject to a much smaller penalty or consequence than a sign that violates the harmonized Sign By-Law, regardless of the magnitude of the violation.

Changes to Other Sign Regulations:

Removal or Modification of Legal Non-Conforming Signs:

Throughout the consultation, there was little support for the City requiring the removal of previously authorized signs or for requiring modifications to their size, height or location. The majority felt that those signs should have the right to remain and only be required to comply with the harmonized Sign By-Law when replaced or substantially altered.

It is therefore not recommended that previously authorized signs be required to be removed or made to comply with the height, size or location requirements of the harmonized Sign By-Law, should the Province amend or repeal S.110(1).

Regulating the Illumination Impact of Signs:

The brightness, hours of illumination and signs with electronic copy can have a significant impact on surrounding neighbourhoods. The by-laws of the former municipalities were largely silent on any controls for sign brightness, hours of illumination or image duration and transition for signs displaying electronic copy.

The harmonized Sign By-Law introduced regulations on the illumination of signs and message-display for electronic signs. However, as a result of S.110(1), the City has no ability to apply a single set of illumination or message-display regulations to all signs. Signs regulated by the harmonized Sign By-Law have restrictions on maximum brightness and must be turned off between 11:00 p.m. and 7:00 a.m. In addition, electronic signs have limits on the duration of each message (minimum of ten seconds) and cannot use any motion effects (such as scrolling) during the transition to a subsequent image.

Illuminated or electronic signs issued permits under the harmonized Sign By-Law could be located adjacent to an older sign which legally operates 24 hours per day with no restrictions on brightness, or message-display.

Based on feedback received from the consultation and the number of complaints received by the City regarding the impact of illuminated and electronic signs, it is recommended that the requirements of the harmonized Sign By-Law for illuminated and electronic signs be applied to all signs in the city. Applying the illumination standards currently in the harmonized Sign By-Law would address the main concern raised by members of the public about signs.

IMPLEMENTATION OF PROPOSED CHANGES

Should City Council adopt the recommendations contained in this report, the City Manager's Office, as part of the COTA five-year review process, would include a request that the Province amend S.110(1) of COTA to improve the City's ability to govern signs in a harmonized manner.

Following changes to S.110(1), the harmonized Sign By-Law could be amended to reflect the City's objectives for previously authorized signs. Prior to amending the harmonized Sign By-Law, it is recommended that additional consultation take place with the public and stakeholders to seek input as to regulations that should be applied to existing non-conforming signs and to determine a time frame for the implementation of any amendments.

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