

2021 Election Signs Bylaw Review

Date: April 13, 2021

To: Economic and Community Development Committee

From: Executive Director, Municipal Licensing and Standards

Wards: All

SUMMARY

This report provides an overview of the current rules surrounding election signs, and recommends changes to improve the enforcement and administration of election sign regulations.

Election signs are regulated by Article II of the Toronto Municipal Code Chapter 693, Signs. As directed by City Council in September 2020, staff in Municipal Licensing and Standards conducted a review of the City of Toronto's election sign rules. Posters, temporary signs (for example, A-frame, open house, and mobile signs), and signs regulated under the Toronto Municipal Code Chapter 694, Signs, General, were not part of this review.

A comprehensive review of election sign regulations was completed in 2017. This resulted in City Council amending Chapter 693 to modernize regulations, align them with changes to the *Municipal Elections Act, 1996*, and respond to concerns previously raised by the Ombudsman and the Auditor General. This year's review provided staff with an opportunity to consider the impact of those changes. The review included a stakeholder engagement process with both Members of Council and the public, an analysis of enforcement data from the 2018 municipal election, and a review of current enforcement processes.

The review found that the City received fewer complaints related to election signs during the 2018 municipal election than in 2014, pursued more enforcement action for non-compliance and proactively removed a significant number of signs. However, stakeholders and the public identified concerns around timely enforcement, the environmental impact of signs, as well as signs that are placed unlawfully or in excessive numbers on public property which can result in clutter, distraction, and potential safety concerns.

In response to this feedback, this report recommends bylaw amendments, an enhanced enforcement strategy, as well as strengthened education and communications efforts to address these concerns.

This report was prepared in consultation with the City Clerk's Office, Legal Services, Solid Waste Management Services, and Transportation Services.

RECOMMENDATIONS

The Executive Director, Municipal Licensing and Standards recommends that:

1. City Council amend Article II of Toronto Municipal Code Chapter 693 as follows:
 - a. Remove the requirement that City staff must provide notice to a candidate within 24 hours of the sign being removed.
 - b. Require that the name of a candidate be displayed on election signs in a manner that is clear and legible.
 - c. Clarify that signs greater than 2 metres above ground level are permitted on windows and balconies.
2. City Council amend Article II of Toronto Municipal Code Chapter 693 to:
 - a. Increase the maximum fine to \$100,000;
 - b. Include offences for obstruction and failure to provide information as required;
 - c. Designate each offence as a continuing offence with a maximum daily fine of \$10,000 and a total fine which may exceed \$100,000; and
 - d. Include authority to enter to inspect, to make orders to comply and to take remedial action.
3. City Council authorize the City Solicitor, City Clerk, and Executive Director, Municipal Licensing and Standards, to re-structure, consolidate, and simplify all existing requirements, including enforcement provisions, to improve the readability of Article II (Election Signs) of the Toronto Municipal Code Chapter 693.

FINANCIAL IMPACT

There are no current or known future year financial impacts arising from the recommendations contained in this report.

The Chief Financial Officer and Treasurer has reviewed this report and agrees with the financial implications as identified in the Financial Impact section.

DECISION HISTORY

On September 30, 2020, City Council adopted Item EX16.8, The Impact of COVID-19 on 2022 Election Preparation Activities, and directed staff to review the City's current

election signs rules. Staff were directed to include enforcement data from the 2018 election, a stakeholder engagement process with Council Members, and enforcement of unlawfully displayed election signs on public property as part of the review.
<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2020.EX16.8>

On July 4, 2017, City Council adopted Item LS19.1, Amendments to Chapter 693, Signs, Article II, Election Signs, which updated election sign rules to simplify and clarify bylaw requirements, address concerns previously raised by the Ombudsman and the Auditor General regarding administrative challenges experienced, and reflect changes to the Municipal Elections Act, 1996, respecting third party advertising in elections.
<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2017.LS19.1>

COMMENTS

Background

Election signs in Toronto must comply with [Toronto Municipal Code Chapter 693](#), Article II (Election Signs). This Article provides both general regulations and specific regulations for election signs on private and public property, as well as sets out when election signs can be displayed, when they must be removed, and rules for campaign office signs.

As directed by City Council in September 2020, staff in Municipal Licensing and Standards conducted a review of the City of Toronto's election sign rules. Posters, temporary signs (for example, A-frame, open house, and mobile signs), and signs regulated under the Toronto Municipal Code Chapter 694, Signs, General, were not part of this review.

A comprehensive review of election sign regulations was completed in 2017. This resulted in City Council amending Chapter 693 to modernize regulations, align the bylaw with changes to the *Municipal Elections Act, 1996*, and respond to concerns previously raised by the Ombudsman and the Auditor General. This year's review provided staff with an opportunity to consider the impact of those changes.

In conducting the review, staff completed a jurisdictional scan, undertook consultation with the public and Members of Council, engaged with divisional partners in City Clerk's Office, Legal Services, Solid Waste Management Services, and Transportation Services, and analyzed service requests and enforcement data from the 2018 municipal election.

Current rules for election signs

Election signs are defined as signs that advertise or promote a candidate in a federal, provincial, or municipal election (including the election of a local board or commission). This definition includes signs intended to influence a person to vote for or against any candidate.

All election signs are subject to the regulations set out in Chapter 693, Signs, although when election signs can be displayed depends on the type of election. For municipal

elections, election signs can only be displayed 25 days prior to Election Day. For provincial and federal elections, election signs can be displayed from the day the writ of election is issued. In any case, election signs must be removed within 72 hours after the completion of voting on Election Day.

In general, election signs cannot be illuminated (unless on approved advertising spaces such as TTC advertising spaces, street installation advertising spaces, or billboards), include the City's logo, obstruct visibility or block sightlines, or be attached to trees. There is a height restriction of two metres above ground level for election signs displayed outdoors, with the exception of campaign office signs or those on approved advertising spaces. Similarly, election signs can be no larger than 1.2 square metres in area, also with the exception of campaign office signs or those on approved advertising spaces. The City has published [election sign placement guidelines](#) to assist members of the public.

There are also specific rules depending on whether the election sign is on private or public property:

- **Election signs on private property:** election signs can be displayed on fences or on private property with the consent of the owner or occupant of the property, provided it meets setback and visibility requirements.
- **Election signs on public property:** election signs can be displayed on public utility poles, streets/roads, the surface of vehicles or trailers, and approved advertising spaces, subject to the appropriate setback and visibility requirements. Election signs cannot be displayed on a median or island, adjacent to a voting place, or without the consent of the owner or occupant of the abutting property.

Changes made in 2017

In 2017, MLS undertook a comprehensive review of Chapter 693, Article II, and made a series of bylaw amendments to modernize the regulations, address concerns previously raised by the Ombudsman and the Auditor General, and take into account changes to the *Municipal Elections Act, 1996* regarding third party advertising in elections.

Some of the most significant changes made in 2017 included eliminating the election sign deposit, waiver/affidavits process, and fee structure for the removal and storage of improperly displayed election signs. Under the previous system, each candidate was required to pay a \$250 deposit prior to any election signs being displayed on public property, which was refundable subject to deductions made to cover the removal and storage costs for unlawfully placed signs (e.g. \$25 per sign for removal and variable fees for storage). Fees for removal were waived if a candidate provided 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."

Staff recommended removing this process in response to concerns from the Ombudsman and Auditor General around the appropriateness of the waiver and its impact on the ability to recover costs. The process required a significant amount of staff time and resources across multiple divisions, and the resources expended exceeded the revenues collected by the City. Eliminating this process also removed barriers to

entry in the political arena and allowed all candidates the same opportunity, regardless of access to campaign resources.

Amendments were also made to clarify requirements for election sign placement on public property to address public safety/sightline obstructions, introduce new rules to allow election signs on the dedicated advertising space on street furniture, vehicles and trailers, eliminating regulation around the indoor display of election signs, and clarifying rules for the display of campaign office signs.

2018 Municipal Election and Enforcement Data

The 2018 municipal election took place on October 22, 2018. 501 candidates were certified across all offices to run during the 25 day period prior to Election Day when election signs could be displayed (see Table 1).

Table 1: Total certified candidates, by office.

Office	Certified Candidates
Mayor	35
Councillor	242
School Board Trustee	224
Total	501

Before this period began, MLS generally enforced election sign regulations on a complaints basis. During this period, MLS redeployed 10 Bylaw Enforcement Officers to conduct dedicated enforcement of election sign regulations. Dedicated enforcement staff were responsible for responding to complaints (service requests) received through 311 and Elections Services (City Clerk's Office), as well as proactively removing signs that were unlawfully placed.

Service requests regarding election signs could be submitted to the City through 311 during the election period. On Election Day, a direct line to the central operations centre for elections was established to ensure timely and streamlined enforcement. MLS responded to a total of 1,752 service requests related to election signs before and after Election Day (that is, between September 1 and November 30, 2018). The highest volume of service requests were received on October 1, 2018, when 546 service requests were processed. Election Day was the third busiest day with respect to service requests received. During the election period, staff laid four charges for non-compliance, although these were later withdrawn. No notices were issued.

Staff received fewer service requests in 2018 than during the previous municipal election in 2014. During the same time period in 2014, staff responded to 2,180 service requests and laid one charge.

The primary enforcement tool for the election signs bylaw is removal of non-compliant signs. The City removed a total of 6,243 election signs during the 2018 municipal election, as detailed in Figure 1. The majority of sign removals were proactive (that is, were done by staff without a service request submitted to the City). The highest volume of election signs removed on a single day was 1,404 (October 1, 2021). This included 511 election signs from one candidate.

The most common violations found during the 2018 municipal election were related to election signs on public property. The most common violations were (in order):

- Displaying an election sign within 15 metres of a major intersection;
- Displaying an election sign within 3 metres of a local road;
- Placing a sign less than 1.5 metres from a curb.

Staff also found that a number of election signs were displayed before September 27, 2021 (that is more than 25 days in advance of voting day).

Signs that are removed by MLS are stored in transfer stations around the city for the duration of the election period, as well as 72 hours after Election Day. Candidates are first notified within 24 hours that their sign has been removed, and again after Election Day, advising that their signs are in storage and available for pick-up. Signs that are not picked up after this time period are disposed of by the City.

Following Election Day in 2018, the vast majority of signs removed by the City were not retrieved by candidates, as shown in Figure 2. Only 904 of the 6,243 signs removed were collected and, of the 904 signs, 510 were for a single candidate.

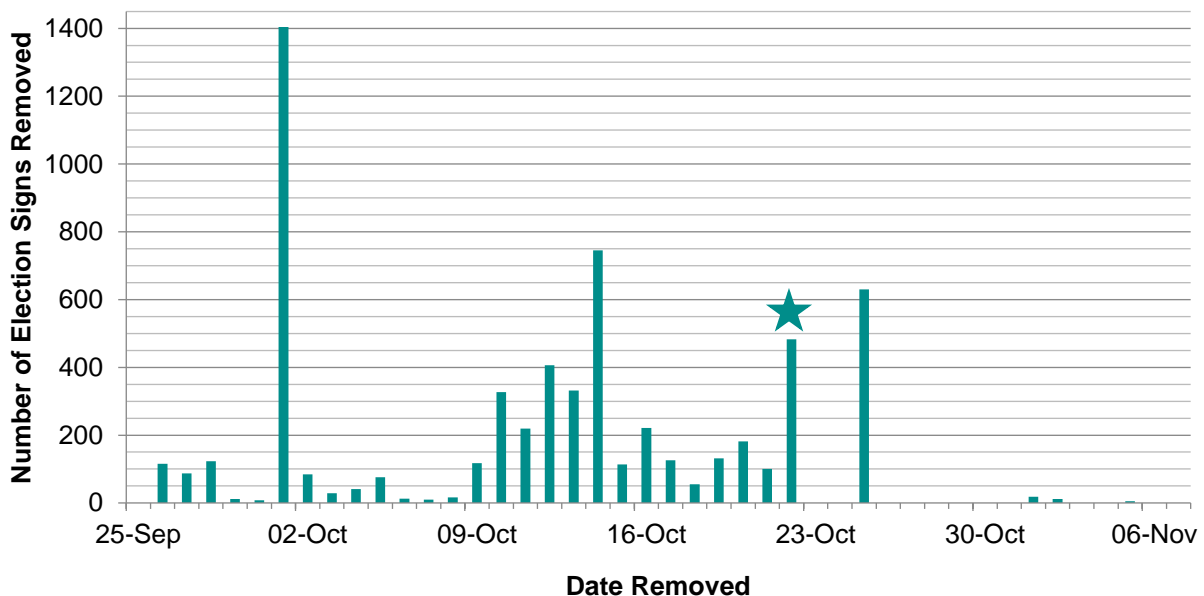


Figure 1: Number of election signs removed during 2018 municipal election

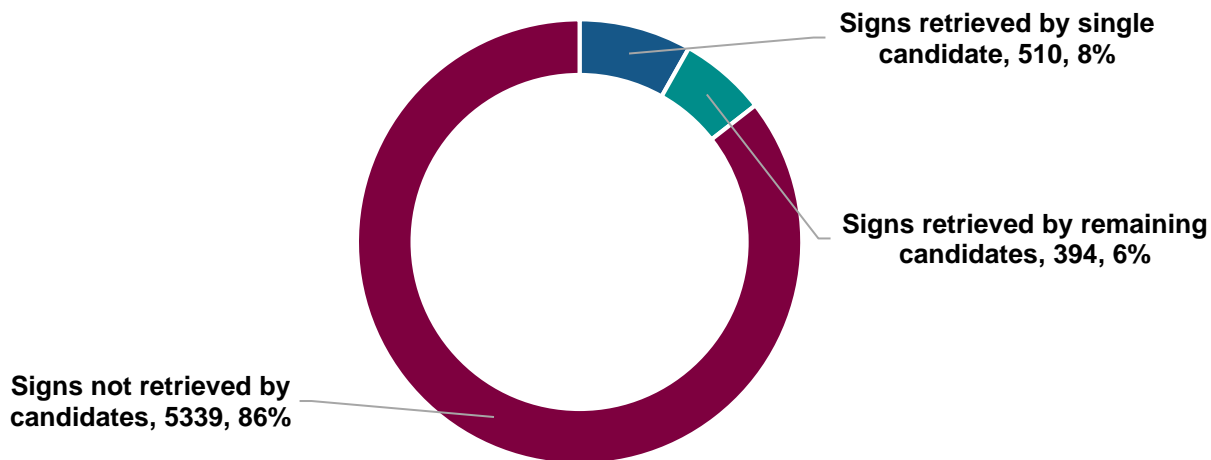


Figure 2: Number of election signs retrieved by candidates following the 2018 municipal election

Stakeholder Engagement

In January and February 2021, staff undertook a stakeholder engagement process that included Council Members, the general public, and partner divisions.

Feedback from Members of Council

As directed by City Council in September 2020, staff included a process to engage with City Councillors as part of this review, which received responses from 12 City Councillors. Staff heard that:

- Enforcement was a primary concern, particularly issues related to a lack of timely enforcement. 75% of surveyed Councillors reported feeling somewhat concerned or very concerned about timely enforcement.
- Visibility and safety were consistently ranked as important considerations for signs displayed on public property. 83% of surveyed Councillors reported feeling somewhat concerned or very concerned about signs blocking sightlines or visibility.
- There was support for election signs in Toronto as an important way to advertise and for residents to express their support for their candidate of choice, with some Councillors questioning their use on public property. 42% of surveyed Councillors reported feeling somewhat concerned or very concerned about the number of signs on public property.
- A lack of compliance, particularly around Election Day, was referenced as an issue, with some advocating for increased enforcement and/or penalties.
- There is often a small number of candidates that are consistently non-compliant with the regulations.
- The existing rules for placement of signs on public property can be confusing, and further restrictions may result in more non-compliance.

Feedback from the general public

An online public survey was available from February 10, 2021 to March 3, 2021. The survey sought to better understand residents' understanding of current rules for election

signs, common concerns, and general comments about election sign use in Toronto. In total, 317 people responded to the survey, with 270 reaching the end of the survey.

The online survey, hosted by the City, did not have the same scientific controls that a third-party survey would. Because of this, results of the survey should not be viewed as representative of all Torontonians. The survey was advertised through the City's social media channels, as well as an email to Councillors and ratepayer associations with a request to share with their networks.

Through the survey, members of the public provided the following feedback:

- **Enforcement:** staff heard that the timely removal of election signs should be improved, particularly after Election Day. Respondents also cited examples of non-compliant signs, such as those placed too close to the boulevard prior to Election Day, not being removed in a timely manner when reported to 311. Some felt that the City should do more to improve education for election sign rules.
- **Environmental impact:** the environmental impact of election signs was the most prominent concern voiced in the survey. Many respondents raised the issue that materials used for election signs are largely not recyclable, generating unnecessary waste. Some suggested that the City require signs to be made from biodegradable or compostable materials.
- **Sign clutter:** there was concern among some respondents that the current rules allow too many signs resulting in clutter; many respondents suggested that a limit be placed on the number of signs used by candidates in each ward, and some suggested that election signs be banned entirely.
- **Visibility and safety:** some respondents stated that election signs have obstructed sightlines for drivers and cyclists, and blocked accessible spaces. Some also voiced concern about the use of other materials, such as metal pegs, that could be dangerous.
- **Other:** staff heard from some respondents that elections signs play an important role in the civic participation, and inform residents of candidates running for the election in their ward or riding.

Figure 3 provides an overview of the top concerns related to election signs as ranked by survey respondents.

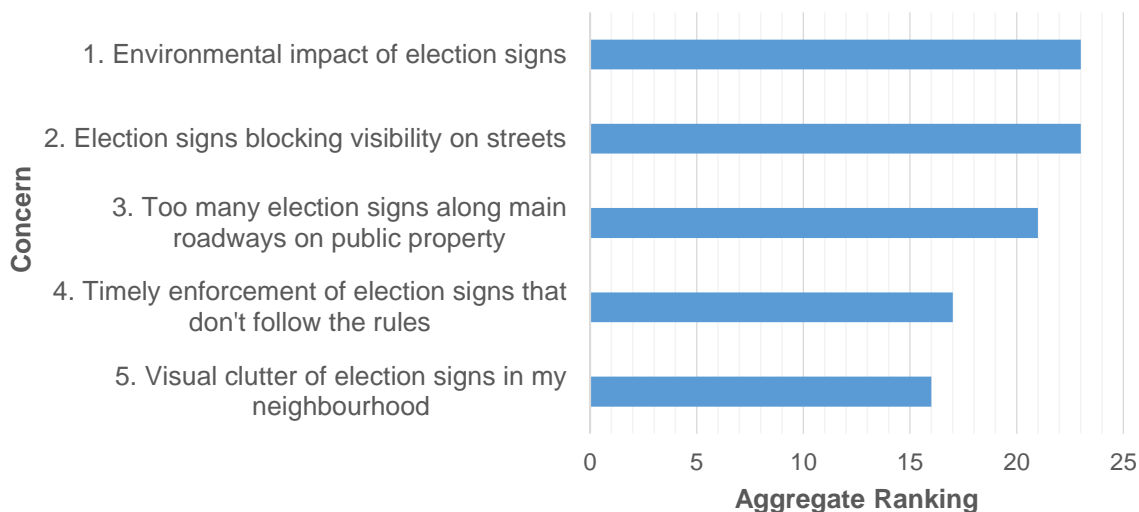


Figure 3: Ranking of concerns related to election signs

Survey respondents also reported fairly low levels of familiarity with the existing rules for election signs, where to access information about election signs, and the ability to contact 311 to learn more. For example:

- 38% of survey respondents agreed or strongly agreed with the statement "I am familiar with election sign rules in Toronto."
- 45% of survey respondents agreed or strongly agreed with the statement "I know where to access information about election sign rules in Toronto."
- 65% of survey respondents agreed or strongly agreed with the statement "If I had questions about election sign rules in Toronto, I would know to contact 311 for information."

Feedback from partner divisions

As part of the election signs bylaw review, MLS staff spoke with representatives from partner divisions including the City Clerk's Office, Solid Waste Management Services, and Transportation Services.

- **City Clerk's Office:** staff in the City Clerk's Office provided suggestions to improve the interface between MLS enforcement and their Election Services team. This includes updating public-facing information (such as the website) to provide plain-language information about the City's rules, simplifying the language in the bylaw wherever possible, and building on past successful partnerships during the election period. MLS heard that enforcement of election signs around voting locations is a challenge, particularly on Election Day.
- **Solid Waste Management Services (SWMS):** SWMS staff will continue to support providing information for candidates and the public regarding recommendations for material composition of election signs which facilitate their recyclability. In past elections, SWMS has provided a letter to all candidates with recommended types of recyclable materials for election signs and proper disposal methods with links to MLS bylaw related information. The general public will have access to the same information on the election signs webpage, TOwaste application, Waste Wizard, City newsletters and social media channels.

Addressing unlawfully placed signs on public property

City Council directed staff to address unlawfully placed election signs on public property. During the consultation process, staff received feedback and suggestions on how to address this issue, including introducing fees for removal, capping the number of signs per candidate, introducing space requirements to limit clustering, and banning election signs on public property altogether. Staff explored each of these suggestions during the bylaw review.

In 2017, City Council voted to remove the deposit, waiver/affidavits process and fee structure for the removal and storage of improperly displayed election signs. This change was the result of extensive administrative burden on staff and concerns from both the Ombudsman and Auditor General. While some smaller jurisdictions use various fee systems for election signs, staff do not recommend introducing fees in Toronto. Introducing fees at the beginning of an election period creates a barrier to civic participation, whereas collecting fees at the end of an election period is difficult and creates further administrative burden.

Stakeholders have expressed concerns around candidates using an excessive number of election signs on public property, creating clutter and potential safety concerns. Staff considered both introducing a cap on the number of election signs per candidate per ward, as well as a cap on the number of signs per candidate per premise. However, such requirements are very difficult to enforce given the size of the City and wards, as well as the variable sizes of public spaces where signs are placed.

Similarly, staff explored introducing requirements to limit clustering (e.g. requiring signs to be placed no more than 1 metre from another sign). This was considered in the context of both space between individual signs, as well as signs for the same candidate. However, enforcement staff would be unable to determine which signs had been placed in an area first, which may result in the removal of signs for candidates who were initially following the rules. For example, if one candidate placed two signs with 1 metre distance between them, another candidate may place their sign within this space, and staff would be required to remove all signs that are in contravention to this requirement. Furthermore, staff heard concerns around adding more prescriptive placement requirements to those that already exist, which may cause further confusion and increased non-compliance.

Finally, some stakeholders suggested that election signs should be banned on public property altogether and be permitted only on private property. Staff do not recommend introducing such a ban, as election signs are important features of the electoral process and freedom of expression.

In order to effectively and fairly address signs unlawfully placed on public property, staff recommend that MLS continue to use existing enforcement mechanisms and develop an enhanced enforcement strategy for future elections.

Enhanced enforcement strategy

In response to stakeholder and public concerns, as well as City Council's request to address unlawfully placed signs on public property, MLS will work towards implementing an enhanced enforcement strategy for election signs moving forward.

This enforcement strategy will include the following:

- **More dedicated Bylaw Enforcement Officers:** MLS intends to assign 30-40 staff to the dedicated enforcement of election signs during the period of time where election signs are permitted (that is, 25 days prior to voting day). This is an increase from prior elections, where 10-12 staff were assigned to this team. Dedicated enforcement staff proactively remove unlawfully placed signs as well as respond to service requests.
- **Ensuring service standards are met:** MLS will continue to aim to meet its customer service standards for responding to service requests related to election signs, including a 48 hour investigation time (i.e. the length of time to investigate a request) and a 48 hour completion time (i.e. the length of time to complete a request).
- **Modernized enforcement provisions:** As part of clarifying and modernizing the bylaw, the offences section of Article II will align with authorities under the City of Toronto Act, such as increasing the maximum fine to \$100,000, including offences for obstruction and failure to provide information as required, designating each offence as a continuing offence with a maximum daily fine of \$10,000 and a total fine which may exceed \$100,000; and including authority to enter to inspect, to make orders to comply and to take remedial action.
- **Issue offence notices for non-compliance:** MLS will use existing enforcement tools such as issuing tickets (Part I offence notices with set fines) and court summonses (Part III offence notices) for more egregious or repeat offences.
- **Increase set fine amounts:** Set fines for Part I offences in the bylaw range between \$200 and \$300 for each offense. Staff can apply to the Senior Regional Justice to increase set fine amounts for particular offences as needed.
- **Continue to enforce parameters on public property:** Existing enforcement mechanisms and bylaw requirements will continue to address concerns raised by stakeholders around unlawfully placed signs on public property. For example, prohibiting signs placed in close proximity to intersections to ensure safety of drivers and pedestrians, and requiring consent from owners of the abutting property.

Recommended bylaw amendments

Staff propose making additional amendments to Article II of Chapter 693 to further improve the administration of election sign rules and increase the readability and enforceability of the Article. Each recommendation and corresponding rationale is provided in Table 2.

Table 2: Recommended bylaw amendments and rationale

RECOMMENDATION	RATIONALE
1A. Remove the requirement that City staff must provide notice to a candidate within 24 hours of the sign being removed.	Staff recommend removing this requirement from the bylaw to allow staff to operationalize appropriate notification periods in a way that is more streamlined and efficient. For example, some jurisdictions send weekly emails throughout the election period and daily during the week leading up to Election Day. Regardless of operational changes, staff will ensure that all candidates are contacted via email with information about where and when signs can be retrieved after removal.
1B. Require that the name of a candidate be displayed on election signs in a manner that is clear and legible.	Outsider election signs require contact information for the individual responsible for the sign, but there is no similar requirement for election signs. Staff have faced difficulty identifying election signs in previous elections, particularly when text (e.g. candidate's name) is small and/or not legible.
1C. Clarify that signs greater than 2 metres above ground level are permitted on windows and balconies.	The bylaw currently permits election signs on private property if they are no higher than two metres above ground level. Staff recommend clarifying that this does not apply to election signs in windows and balconies. This will ensure clarity for residents, particularly those in apartment buildings or condominium towers.
2. Amend Toronto Municipal Code Chapter 693 to modernize the offences section of the Article II.	The offences section of Article II will be clarified and updated to align with authorities under the City of Toronto Act, as described in the enforcement strategy outlined above.
3. Re-structure, consolidate, and simplify all existing requirements, including enforcement provisions, to improve the readability of Article II (Election Signs) of the Toronto Municipal Code Chapter 693.	In response to public and stakeholder feedback that the bylaw is complex and difficult to navigate, staff have worked with Legal Services to redraft the Article (see Attachment 1). These changes will encourage compliance with the bylaw and support the City's education and enforcement strategy.

Education, outreach and communications efforts

The review of election sign regulations identified opportunities for greater education for both candidates and the public, as well as stronger communications efforts. Staff have responded by updating the City's election signs website to provide clearer plain language information to the public and advice to candidates, and will continue to work with Strategic Communications to ensure clear messaging through City of Toronto corporate channels during elections.

MLS will also continue to engage with City Clerk's Office to further improve how information about election sign rules is shared during future elections, as well as to prepare for future elections - such as hosting town hall style information sessions to educate candidates about election sign rules.

Through the review, staff also heard concerns about not all election signs being made from recyclable materials. MLS staff, in consultation with Strategic Communications and SWMS have updated public-facing information to include recommended materials that are recyclable, along with proper disposal methods for all election signs whether recyclable or not. SWMS staff will continue to work with Strategic Communications to develop and disseminate educational materials around the reuse, recyclability and proper disposal of election signs. MLS will continue to provide educational materials on the bylaw.

Next steps

Staff recommend that the bylaw amendments proposed in this report come into effect immediately. Staff will begin implementation of the enhanced enforcement strategy, bylaw amendments and education/communication efforts outlined in this report in preparation for both the municipal and provincial elections anticipated in 2022.

Staff will also be reviewing the remaining articles of Chapter 693, Signs to update the bylaw and respond to outstanding City Council directives. However, this work has been delayed as a result of shifting priorities in response to the COVID-19 pandemic. This report is expected later in 2022.

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SIGNATURE

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ATTACHMENTS

Attachment 1 - Draft Updated Toronto Municipal Code Chapter 693, Article II