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Date: June 29, 2018
To: Mayor and Council
Author: Jennifer Astrologo, Director of Corporate Services/Clerk
RE: Election Sign By-law (76-2018)
Report No.: CS-2018-16

AIM

To provide Council with an overview of the draft election sign by-law and to make a recommendation to Council for the adoption of the draft by-law.

BACKGROUND

At the April 23, 2018 Regular Meeting of Council, the following motion was carried:

Moved by Deputy Mayor Queen, Seconded by Councillor Coghill:

289-2018 That all municipal election signage not be erected or displayed until the second Friday in August and that the Director of Corporate Services prepare a draft by-law regulating election signs for Council's consideration.

The Director of Corporate Services reviewed the applicable legislation and a number of by-laws from various municipalities across the province with a view to developing a draft by-law for Council's consideration.

DISCUSSION

The recent amendments to the *Municipal Elections Act, 1996* (the "Act") has introduced a number of changes with respect to signage during an election. These changes are effective during the 2018 municipal election, and are as follows:

1. Landlords or condominium corporations, or their agents, may not prevent a tenant, leasee, or owner from displaying an election sign on the premise to which the lease relates.

2. The landlord or condominium corporation, or their agent, may set reasonable conditions relating to the size or type of the election sign that may be displayed, and may prohibit the display of election signs in common areas.
3. An election campaign advertisement is an advertisement in any broadcast, print, electronic or other medium that has the purpose of promoting or supporting the election of a candidate, and when purchased by or under the direction of a candidate, must identify that candidate.
4. Election campaign advertisements purchased by third party advertisers must contain the name of the third party, the municipality where the third party is registered, and the contact information (email, address, or telephone number) for that third party.
5. Municipalities have the authority to require the removal of election signs when certain advertising/signage provisions have been contravened.

Although the *Act* sets out some rules with respect to advertising during an election campaign, the overall regulation of election signs within a municipality and the enforcement of same is within the jurisdiction of each municipality.

Currently, the Town does not have a by-law regulating the placement of election signs. After reviewing several by-laws from various municipalities, some of the common features of a by-law include:

1. Timing of the placement of election signs
2. Number and location of signs
3. Penalty for violation
4. Enforcement of the by-law

The draft By-law is intended to clearly outline the rules and regulations with respect to the placement of election signs in the Town of Kingsville under the above criteria for federal, provincial and municipal elections.

Timing of Placement

Currently, motion 289-2018 (reproduced above) is the only authority prohibiting the placement of election signs in the municipality, and permits signs as of the second Friday in August.

The by-laws across the province vary in the date that signage is permitted to be erected. Many of the older by-laws stipulate that signs may be erected as of Nomination Day. However, the recent amendments to the *Act* moved Nomination Day from the second Friday in September to the fourth Friday in July, which increases the duration for sign placement by about 7 weeks. Recently enacted/amended by-laws have addressed this change by adopting alternative provisions which provide that signs may not be displayed until a set number of days prior to Voting Day. These by-laws range from 60 days prior to Voting Day to 24 days prior to Voting Day. For Federal and Provincial elections, municipalities across the province have adopted a provision prohibiting election signage until the issuance of the Writ of Election.

For municipal elections, Administration recommends that signs are not permitted to be displayed until 45 days prior to Voting Day. This would apply to both regular elections and by-elections. This would give candidates/third party advertisers a reasonable amount of time for promotion while balancing the interests of the community with respect to visual clutter.

With respect to federal and provincial elections, it is recommended that Kingsville adopt a provision prohibiting the display of election signs until the Writ of Election is issued.

Following any election, the by-law requires that all signs must be removed within 48 hours of the close of voting. This provision is designed to ensure that once the election has concluded, signs are removed relatively quickly.

Number and Location of Signs

There are several municipalities which restrict the number of signs that can be erected and set out regulations as to the location of those signs. The proposed by-law does not specifically restrict the number of signs that can be placed on a property, but does prohibit placing signs of the same candidate within 10 metres of each other. The intent of this provision is two-fold: i) to limit the visual clutter in the Town that results from election signage, and ii) to give all candidates equal opportunity to place election signs in what may be considered a “prime signage area”.

Although the proposed by-law does not limit the number of signs that can be placed, it does prohibit signage at the following locations:

- On Town owned or controlled property, including parks;
- In the roadway;
- On or in property used as a Ballot Return Station, a Voting Place, or where the administration of the election is occurring;
- Between the sidewalk and the road, and where there is no sidewalk, within 3 metres of the road;
- On any tree, fence, wall, pole or gate located on public property;
- Anywhere that impedes or obstructs pedestrians on a sidewalk; and
- Anywhere that will interfere with the safe operation of vehicular traffic or the safety of pedestrians.

The blanket restriction of the placement of election signs on Town owned or controlled property is crucial to the Town maintaining its non-partisan status with respect to the election. The additional restrictions against placing a sign within 3 metres of the road, or in a spot that impedes pedestrian traffic on a sidewalk or that interferes with the safe operation of traffic is designed to ensure the safety of visitors and residents alike. Additionally, there are sign height restrictions depending on how close the sign is situated to the road and whether the sign falls within the site visibility triangle.

Penalty and Enforcement

The Town currently does not have a by-law in place to regulate election signs. If the by-law comes into effect, the Clerk, or designate, and by-law enforcement officers are

empowered under the by-law to enforce its provisions. The Town currently operates with a very lean workforce in those departments that are charged with enforcement of the by-law, namely the Corporate Services and Building Departments. Enforcement responsibilities will take away from other duties within the Town. However, the by-law has been drafted so that the rules are simple to understand so that enforcement is straightforward.

Rather than requiring taxation to pick up the entire cost of enforcement, Administration is recommending that some of those costs be transferred to the groups to whom the by-law specifically applies. Complete cost recovery for the enforcement of the by-law is not realistic, however, if candidates and advertisers know that they are accountable and that there are real cost consequences for violations, they may take more care to ensure that their signage is placed in compliance with the by-law.

To address the costs associated with enforcement of their election sign by-law many municipalities, including King, Caledon, Newmarket, Mississauga, Essa, Uxbridge and Wasaga Beach, have introduced a security deposit that must be paid before a candidate or third party can display any election signage. With the exception of some municipalities, the deposit is fully refundable provided that the provisions of the applicable sign by-law are not violated. The amount of the deposit varies amongst municipalities and in some circumstances the amount is different within the same municipality depending on which council position for which the candidate is nominated.

In Caledon, the security deposit is \$300 for Mayor and \$150 for councillors. In Clarington and Newmarket, a deposit of \$250 must be posted, while Essa only charges its candidates \$100. King requires a \$250 deposit, and also charges its candidates a \$100 non-refundable fee.

Administration is recommending the collection of a refundable security deposit for those Candidates that opt to place election signs throughout the Town. Under the draft by-law, any municipal council candidate, school board trustee candidate or third party advertiser who wishes to place election signs in the municipality would be required to provide the Town with a deposit in the amount of \$140.00. Individuals wishing to place election signs around Town for a federal or provincial election would be required to pay a \$300.00 deposit. The deposit would be fully refundable provided there was no violation of the by-law. If any election signs were required to be removed for non-compliance, the deposit would be reduced by \$20.00 for each sign that was removed. If a security deposit is provided to the Town prior to any signage being displayed the Town can draw on the deposit at a rate of \$20.00 per sign removed. Without the security deposit, the Town must rely on the sign owner to attend at the municipal office and pay the removal fee.

LINK TO STRATEGIC PLAN

Promote the betterment, self-image and attitude of the community.

FINANCIAL CONSIDERATIONS

There are no specific financial considerations at this time. Given that the Town has never regulated election signs, there is no means to calculate the costs of enforcement.

CONSULTATIONS

Senior Management Team

RECOMMENDATION

That Council adopt By-law 76-2018, being a by-law to regulate election signs in the Town of Kingsville at this Regular Meeting.

Jennifer Astrologo

Jennifer Astrologo, B.H.K. (hons), LL.B
Director of Corporate Services/Clerk

Peggy Van Mierlo-West

Peggy Van Mierlo-West, C.E.T.
Chief Administrative Officer