

COMMITTEE OF THE WHOLE (WORKING SESSION) - JUNE 20, 2008

SIGN BY-LAW AMENDMENTS

Recommendation

The Commissioner of Legal and Administrative Services and City Solicitor, in consultation with the Director of Enforcement Services, recommends:

1. That the penalty provisions of the Sign By-law be amended to reflect the new fine system authorized by the *Municipal Act*;
2. That the mobile sign provisions of the Sign By-law be amended to prohibit signs erected on vehicles;
3. That the election sign provisions of the Sign By-law be amended to allow candidates to erect signs from the close of nominations in the case of municipal elections and from the issuance of an election writ in the case of a federal and provincial election;
4. That Public Notice be provided pursuant to Notice By-law 394-2002;
5. That Staff proceed to investigate the feasibility of allowing signs on utility poles as an alternative to the illegal placement of signs on road allowances, and report back to the Committee of the Whole Working Session in the Fall with a comprehensive report.

Economic Impact

Not applicable.

Communications Plan

Public Notice of the proposed amendments will be given in accordance with Notice By-law 394-2002.

Purpose

This report is to provide draft amendments to the Sign By-law, 203-92, as amended.

Background - Analysis and Options

The proliferation of illegal signs continues to present challenges to Staff tasked with the enforcement of the Sign By-law 203-92, as amended (hereinafter the "Sign By-law").

Further, recent discussions regarding the election sign provisions of the Sign By-law makes this an appropriate time to introduce amendments to the Sign By-law to increase its effectiveness and clarify previous language.

a. Increased Penalties

The Sign By-law restricts the use of Mobile Signs in the City of Vaughan to:

- one sign per lot at any given time;
- 30 days on followed by 30 days off;
- Single coloured letters;
- Must be located entirely on private property ;
- Not in a parking space;

- Not in or within 8 metres of a driveway;
- Must display a valid permit issued by the Building Standards Department.

Mobile sign companies continue to erect mobile signs contrary to these provisions.

Enforcement of the Sign By-law is conducted by Enforcement Services Staff. Currently two Enforcement Officers are assigned to patrol both proactively and reactively to identify violations and remove the signs in violation. Due to the weight of the signs, the process of loading and unloading, and the administrative processes, approximately eight signs per shift can be impounded.

In 2007, approximately 325 signs were impounded and only 42 were recovered by the offending sign companies at a fee of \$300 per sign. Despite charging the companies each time signs are impounded, there has been no significant improvement in the level of compliance.

To increase compliance, Enforcement Services sent a letter to all sign companies known to be operating in Vaughan advising that their business licenses would be in jeopardy should they not comply with the By-law. The Licensing Department is currently reviewing two companies for potential business license suspension and/or revocation.

In addition, Staff are recommending that section 3.10 of the Sign By-law be amended to reflect the new penalty regime under section 429 of the *Municipal Act*. Currently, the Sign By-law allows for a maximum fine of \$5,000 under the *Provincial Offences Act* for Part III Offences. For Part I Offences, staff write \$175 tickets to offenders.

Under section 429 of the *Municipal Act*, municipalities may now "establish a system of fines for offences under a by-law". In effect, this enables municipalities to set their own fines. Under such a system of fines, a minimum fine may be prescribed (not exceeding \$500) and maximum fines may not exceed \$100,000. As well, specific fines may be provided for continuing offences, multiple offences, escalating fines for second and subsequent convictions of the same offence, and special fines (in addition to regular fines) designed to eliminate or reduce any economic advantage or gain from contravention of the by-law. Section 425(3) of the *Municipal Act* also allows a municipality to charge Officers and/or Directors of a corporation who knowingly contravene a sign by-law. Staff are proposing to include such a system of fines, and to have minimum set fines of \$400 for Sign By-law contraventions. This new system of fines would be an effective tool to ensure compliance with the Sign By-law.

Business license suspensions and revocations would provide a more effective compliance tool.

b. Mobile Sign Definition

The current wording of the mobile sign provisions in the Sign By-law does not capture those signs that are mounted on vehicles. Council, at its meeting of April 14, 2008, directed Staff to:

"investigate how those portions of the Sign By-law governing mobile signage could be amended, in order to prohibit the parking of large trucks for extended periods of time in commercial plazas adjacent to roadways, for the temporary display of non-permanent signage".

Two amendments will capture the intent of the recommendation above. First, Staff recommend that the term "Sign, Portable" found in the definition section of the Sign By-law be amended to read "Sign, Mobile". Second, Staff recommend that any reference to "portable sign" in section 8.11 of the Sign By-law be changed to "mobile sign". These amendments will ensure that signs mounted on vehicles would be subject to the same provisions that are applicable to other types of mobile signs. Discussion with the Regional Prosecutor indicates that they are prepared to prosecute such a charge.

c. Election Signs

The Sign By-law currently restricts the length of time that an election sign may be posted prior to an election to 21 days. This provision was successfully challenged in court during the 2007 provincial election, which had a campaign period of 30 days. The Superior Court of Justice found that prohibiting election signs to less than the 30 day election campaign period infringed upon a candidate's freedom of expression under the *Charter of Rights and Freedoms*. To reflect the Court's decision, Staff are recommending that the Sign By-law be amended to allow for the posting of federal and provincial election signs after the issuance of a writ. With respect to municipal elections, staff are recommending that election signs be permitted at the close of nominations. Other municipalities in the Greater Toronto Area such as Toronto, Brampton and Mississauga have implemented similar provisions in their respective Sign By-laws.

During the last municipal election campaign, Enforcement Services proactively enforced the provision of the Sign By-law which prohibits the posting of election signs on any municipal road allowances.

The enforcement action was to impound those signs in contravention of the provisions of the Sign By-law and to charge a confiscation fee of \$20 per sign to the candidate. This fee constitutes a debt against the candidate pursuant to section 99 of the *Municipal Act* and is collected as such. As a result of this enforcement action, 2683 election signs were impounded from municipal property. This further resulted in invoices being issued to those candidates whose signs were impounded from City property. The total value of those invoices was \$53,530. To date \$39,100 remains outstanding.

Staff have sent invoices and demand letters to the candidates advising that the amounts need to be paid to avoid collection action being commenced. The unpaid amounts will now be forwarded for collection.

d. Signs on Public Property

The proliferation of illegal signs is especially prevalent on road allowances. In addition to increased penalties and the allocation of increased resources to deal with this issue, the City may wish to consider permitting the placement of signs on designated select utility poles, as a meaningful alternative to having signs illegally on road allowances. If businesses and/or other individuals are provided a meaningful alternative, they will have less incentive to place signs illegally on road allowances.

Staff are recommending that the City examine the feasibility of allowing signs on select utility poles. The placement of signs on utility poles allows businesses and/or other individuals to continue to place signs in highly visible areas, while at the same time, addressing City concerns such as traffic safety and aesthetics.

Several other major municipalities permit signs on designated select utility poles. For example, the City of Brampton has such a system in place. There, no person is allowed to place a sign on a right of way or other public property unless it is placed on a designated utility pole. City staff installed sleeves onto those utility poles on which signs would be permitted. Examples of these sleeves are attached to this Report. This By-law was challenged during a federal election on the basis that it violated the candidate's freedom of expression, by prohibiting the placement of election signs on right-of-way. The court held that the By-law was constitutionally valid, as it did not create an absolute prohibition for signs on public property.

That case is in keeping with case law on the issue of signs on public property. The Supreme Court of Canada has stated that a complete ban of signs on public property will likely not survive Charter scrutiny. However, it is open for a municipality to regulate which public properties where

signs will be permissible. By allowing signs on designated utility poles or other types of City property, the City would be strengthening the Sign By-law.

The placement of signs on select utility poles, could be an effective tool to prevent the placement of illegal signs on road allowances.

Relationship to Vaughan Vision 2020

This Report is in keeping with the Vaughan Vision in that it speaks to enhancing and ensuring community safety, health and wellness, and it speaks to the pursuit of excellence in service delivery.

Regional Implications

None

Conclusion

The City has authority under the *Municipal Act* to increase fines for contravention of the Sign By-law. Implementing this new penalty regime will help decrease the proliferation of illegal signs in Vaughan. Amendments to the mobile sign provisions will allow Staff to enforce signs mounted on vehicles, while amendments to the election sign provisions will reflect recent case law on the issue of election sign timing. Lastly, allowing signs on designated select utility poles might provide businesses and/or individuals with a meaningful alternative to placing signs on road allowances, which will in turn likely promote greater compliance with the Sign By-law.

Attachments

Attachment 1 – Examples of Utility Pole Signs

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Respectfully submitted,

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