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6/11/2024	1	Standing Committee of the Whole	adopted	

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5.4

Election Signage Bylaws

Presented by: Marta Caufield, Director, Legal, Legislative and Records Services

RECOMMENDED MOTION(S)

1. That Standing Committee of the Whole recommend to Council that Bylaw 15/2024 be given three readings.
2. That Administration align the new Land Use Bylaw with the amendments for election signage outlined in Bylaw 15/2024.

PURPOSE OF REPORT

The purpose of this report is to present proposed amendments to the existing bylaws that regulate election signage in the City to Standing Committee of the Whole with in accordance with Council motion CM-23-10 passed on September 19, 2023. Only amendments to *Traffic Bylaw* 18/2005 are being proposed at this time.

This report also outlines additional amendments to *Traffic Bylaw* 18/2005 as recommended by administration, un-related to election signage.

BACKGROUND AND DISCUSSION

Election Signage

Proposed Amendments

There are two bylaws that regulate election signage in the City of St. Albert: 1) *Traffic Bylaw 18/2005* and 2) *Land Use Bylaw 9/2005*.

At this time, only amendments to *Traffic Bylaw 18/2005* are being proposed. The new land use bylaw is currently being drafted and is anticipated to be brought to Council sometime in Q3 or Q4 of 2024. For efficiency, it is recommended that the proposed changes to election signage be incorporated, as necessary, into the new land use bylaw rather than as amendments to the existing *Land Use Bylaw 9/2005*. The proposed amendments to *Traffic Bylaw 18/2005*, if passed by Council, would not conflict with the existing *Land Use Bylaw 9/2005* and the two bylaws would work together in the interim.

The proposed amendments for election signage are shown in the redline excerpt of *Traffic Bylaw 18/2005* included as Attachment 1 and described in the draft *Bylaw 15/2024* included as Attachment 2.

In accordance with Council motion CM-23-10 passed on September 19, 2023, the proposed amendments add requirements for election signage spacing, including:

1. mandatory spacing between signs on roadways that support the same candidate or the same side of a referendum question, and
2. a clearly specified distance from the curb for placement of signs.

Specifically, the proposed amendments add the following to subsection 53(4)(a) of the *Traffic Bylaw* and require that an election sign:

- “(iii) is located 2m or more from a Curb line or, where there is no Curb line, from the edge of a Roadway; and
- (iv) is located 20m or more from an Election Sign for the same candidate or the same side of a referendum question.”

These two requirements are in addition to the general restrictions that apply to all signs outlined in section 52 and the restrictions already in place for election signs under subsection 53(4) (see Attachment 1).

The proposed amendments for election signage also remove a distinction that currently exists between municipal/school elections and provincial/federal elections. Right now, subsection 53(4)(b) of the *Traffic Bylaw* provides that an election sign pertaining to a municipal or school election can only be placed on a highway listed in Schedule 9, but this restriction does not apply to provincial or federal elections. The proposed amendments change this and apply Schedule 9 equally to all election signs so that no election sign (regardless of the type of election) can be placed on a highway other than a highway referenced in Schedule 9. Subsection 53(4)(b) is updated to reflect this change, as well as Schedule 9 (see Attachment 1).

Justification for Amendments

When regulating election signage, the City must be mindful that this topic engages the right to freedom of expression under subsection 2(b) the *Canadian Charter of Rights and Freedoms* (the “Charter”). Freedom of expression includes the right to communicate in a visual way (using words or images or both) which is what an election sign does. As such, a municipal bylaw that purports to restrict or limit the scope of allowable election signage constitutes a *prima facie* infringement of this Charter provision.

That being said, a Charter right is not absolute, and section 1 provides that any right may be subject to “such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society”. The Supreme Court of Canada has established a test (often called the “Oakes test”) for when section 1 may be invoked by a legislating government to justify its infringement of a Charter right. In its simplest formulation, as applied to Charter rights constrained by election signage regulation, the Oakes test is as follows.

To be upheld as legally valid, a restriction on one or more freedoms protected under Charter subsection 2(b) must be both:

1. directly related to achieving a public purpose that is substantial and important enough, and
2. as minimally restrictive as possible to achieve that public purpose.

In terms of mandatory spacing for election signage, this directly relates to achieving the public purposes of greater public safety and reduced environmental impact. Election signage can become a traffic safety hazard by impeding sight lines and/or distracting drivers. Election signs are also temporary, used for a short period of time, and difficult to reuse, all of which present valid environmental concerns. Adding restrictions to section 53(4)(a) of *Traffic Bylaw 18/2005* that specify the distance from the curb and from another election sign that is the same (either same candidate or same side of the referendum question) would likely improve driver sight lines and reduce unnecessary election signage, both of which are substantial and important enough reasons to justify the restrictions and satisfy the first part of the Oakes test. The specific spacing distances (2m from curb and 20m from another sign that is the same) also represent a balanced compromise that is similar to the spacing restrictions applied to election signs in Edmonton, Calgary, and other municipalities in the region. As such, the proposed amendments would also likely satisfy the second part of the Oakes test as being minimally impairing.

With respect to the distinction that currently exists between municipal/school elections and provincial/federal elections, there is no valid reason to regulate signage for municipal/school elections in any different manner than signage for provincial/federal elections. As currently worded, subsection 53(4)(b) of *Traffic Bylaw 18/2005* would likely fail the first part of the Oakes test as there is no valid public purpose in applying a restriction to municipal and school election signs but not to provincial and federal election signs. Accordingly, the proposed amendments would remove the distinction in subsection 53(4)(b) and apply the requirement that election signs can only be placed on certain highways listed in Schedule 9 equally to all election signs.

In sum, the proposed amendments for election signage are likely to withstand a Charter challenge as the restrictions directly relate to achieving a valid public purpose, seek to be minimally impairing, and are applied equally.

Recommended Items Unrelated to Election Signage

Since *Traffic Bylaw 18/2005* is already being considered, the following proposed amendments also address a few additional items as recommended by administration. For ease of reference, the proposed amendments are shown in the redline excerpt of *Traffic Bylaw 18/2005* included as Attachment 1 and described in the draft *Bylaw 15/2024* included as Attachment 2.

Specifically, the proposed amendments would update:

1. Schedule 7 - Speed Limits which is currently missing the road segment of Gervais Road. The amendment adds the Gervais Road segment and identifies it as the current (no change) posted speed of 50 km/h.
2. Schedule 10 - Fee Schedule which currently states an incorrect violation reference for section "52(i)". The amendment changes the violation to reflect the appropriate section item of distance of sign placement from any intersection.

STAKEHOLDER COMMUNICATIONS OR ENGAGEMENT

N/A

IMPACTS OF RECOMMENDATION(S)

Financial:

None at this time.

Compliance & Legal:

The proposed amendments for election signage spacing are in accordance with Council motion CM-23-10 passed on September 19, 2023. The amendments strike a reasonable balance between the legal requirements of the Oakes test and the environmental impacts and safety concerns of election signage and are likely to withstand a Charter challenge (see above for more information).

The proposed additional amendments recommended by administration ensure that field operational information (speed limits) and associated Fee Schedule references are appropriate and enforceable.

Program or Service:

None at this time.

Organizational:

None at this time.

Risks

Since the proposed amendments change the City's current election signage requirements, if the amendments are passed by Council, the City may receive more questions related to election signs and some additional education may be required.

ALIGNMENT TO PRIORITIES IN COUNCIL'S STRATEGIC PLAN

Not applicable.

ALIGNMENT TO LEVELS OF SERVICE DELIVERY

Not applicable.

ALIGNMENT TO COUNCIL DIRECTION OR MANDATORY STATUTORY PROVISION

On September 19, 2023, Council passed the following motion:

(CM-23-10)

That Administration bring to Standing Committee of the Whole in 2024 proposed amendments to existing bylaws that regulate election signage, informed by both applicable jurisprudence and best practices in other municipalities regarding size, placement and spacing of election signs, with the intent of achieving greater public safety and reduced environmental impact, including:

1. mandatory spacing between signs on roadways that support the same candidate or the same side of a referendum question, and
2. a clearly specified distance from the curb for placement of signs.

The proposed amendments add the two spacing requirements as requested by Council.

IMPACTS OF ALTERNATIVES CONSIDERED

If Council does not wish to support the recommendation, the following alternatives could be considered:

Alternative 1. Do nothing.

This would leave the election signage restrictions as they currently are. This would also mean that the administratively recommended items are not addressed at this time and would have to be done at a later date.

Alternative 2. That Standing Committee of the Whole direct Administration to make amendments to *Traffic Bylaw 18/2005* to address the administratively recommended items only and to leave the regulation of election signage as is.

This would leave the election signage restrictions as they currently are but would address the items recommended by administration (unrelated to election signage).

Alternative 3. That Standing Committee of the Whole direct Administration to make further or different amendments to *Traffic Bylaw 18/2005*.

As a result of debate, Standing Committee of the Whole could revise the proposed amendments and/or suggest additional amendments that they would like for election signage.

Financial:

None at this time.

Compliance & Legal:

If the proposed amendments removing the distinction between municipal/school election signs and provincial/federal elections are not passed, this restriction may not be upheld if it was ever subject to a Charter challenge.

If the proposed additional amendments recommended by administration are not passed, there may be challenges with enforcing the speed limit and fee schedule for those items.

Program or Service:

None at this time.

Organizational:

None at this time.

Risks

None at this time.

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