



Item
Meeting 2019 Sep 09

COUNCIL REPORT

TO: CITY MANAGER **DATE:** 2019 September 03

FROM: DIRECTOR ENGINEERING **FILE:** 42000-05

SUBJECT: SIGN BYLAW ENFORCEMENT MEASURES

PURPOSE: To amend the *Burnaby Sign Bylaw 1972* and the *Burnaby Bylaw Notice Enforcement Bylaw 2009* to enhance enforcement measures.

RECOMMENDATIONS:

1. **THAT** Council authorize the City Solicitor to bring forward the amendments to the *Burnaby Sign Bylaw 1972* and the *Burnaby Bylaw Notice Enforcement Bylaw 2009*, as outlined in Section 8.0 of this report.

REPORT

1.0 INTRODUCTION

The increasing popularity of temporary signs has resulted in a noticeable increase in their use and prevalence, most notably (but not exclusively) during political campaign periods. In spite of the City's efforts to achieve voluntary compliance with the regulations outlined in the *Burnaby Sign Bylaw 1972*, compliance with regard to temporary signs has become increasingly challenging. Inability to achieve voluntary compliance has resulted in increased violation complaints and a corresponding increase in required City resources to address violations. This report outlines proposed bylaw amendments to address areas of concern and enhance bylaw enforcement measures.

2.0 POLICY SECTION

The proposed amendments to the *Burnaby Sign Bylaw 1972* and *Burnaby Bylaw Notice Enforcement Bylaw 2009* are aligned with the City of Burnaby's Corporate Strategic Plan by supporting the following goals and sub-goals of the Plan.

Goal

- A Safe Community
 - Transportation safety –
Make City streets, pathways, trails and sidewalks safer

- A Thriving Organization
 - Financial viability –
Maintain a financially sustainable City for the provision, renewal and enhancement of City services, facilities and assets
 - Communication –
Practice open and transparent communication among staff, Council and the community

3.0 BACKGROUND

The *Burnaby Sign Bylaw 1972* prioritizes public safety and aesthetics, and seeks to minimize or eliminate the negative impacts of signs on private and public properties. The prevalence of temporary signs, most notably (but not exclusively) during political campaign periods, has resulted in challenges in relation to enforcement and increased complaints of violations, with a corresponding increase in required City resources to address violations. Particular areas of concern are in relation to proliferation of signs on private property without inhabited buildings, repeated violations upon return of removed signs, and election and referendum signs being placed on private property outside campaign periods.

Further, the *Burnaby Sign Bylaw 1972* currently authorizes the court to impose fines on individuals or businesses in contravention of the Bylaw to a maximum of \$10,000. Although a penalty is identified in the Bylaw, the penalty is only imposed after a conviction under a long form prosecution under the *Offence Act*. Long form prosecutions are typically time-consuming and used only to address extreme bylaw contraventions. Enforcement by way of the *Burnaby Bylaw Notice Enforcement Bylaw 2009* is more practical and cost-effective for the City.

Staff are recommending the bylaw amendments outlined in this report to assist with addressing areas of concern and enforcement of violations.

4.0 OWNER OR OCCUPIER CONSENT FOR SIGNS ON PRIVATE PROPERTY

There have been a proliferation of signs on vacant or uninhabited private property, which causes enforcement issues due to difficulties with locating property owners of such properties. In many cases, it is unclear whether or not the property owner has consented to the placement of the sign on the property. City staff is challenged with the enforcement actions that can be taken in such situations where the signs currently do not otherwise contravene the *Burnaby Sign Bylaw 1972*, i.e. temporary signs that do not require a permit or approval from the City.

Staff are proposing an amendment to the *Burnaby Sign Bylaw 1972* to prohibit placement of signs on private property without the consent of the owner or occupier, and in the case of properties without an inhabited building, the consent must be in writing and provided to the City upon request. A corresponding penalty of \$300 is proposed to be included in the *Burnaby Bylaw Notice Enforcement Bylaw 2009* for placing a sign on private property without the consent of the owner or occupier.

The prohibition in the *Burnaby Sign Bylaw 1972* together with the corresponding bylaw violation notice penalty would allow for cost-effective enforcement, if the City is not able to obtain voluntary compliance.

5.0 AUTHORITIES TO REMOVE, IMPOUND AND DISPOSE OF CONTRAVENING SIGNS

The Engineering Department currently oversees the removal and storage of signs placed on City streets and boulevards that contravene the *Burnaby Sign Bylaw 1972*. Owners of the removed signs would often claim the signs from the Engineering Department and then place them again on City property in contravention of the bylaw. For private property, City staff currently does not have the authority to remove and impound contravening signs even if they appear to be abandoned. Related to the issue discussed in Section 4.0 of this report, the enforcement is particularly difficult for vacant properties.

The following authorities are proposed to be added to the *Burnaby Sign Bylaw 1972* to address the enforcement challenges:

- authority for City bylaw enforcement officers to remove and impound contravening signs on public and private property (with notice to the property owner or occupier in the case of private property)
- imposition of a removal fee of \$50 fee for each contravening sign, payable when the sign is claimed.
- authority for the City to dispose any impounded signs that are not claimed within 3 business days

6.0 TEMPORARY ELECTION AND REFERENDUM SIGNS

Schedule 1 Section (9) of the *Burnaby Sign Bylaw 1972* permits temporary signs "pertaining to campaigns, drives or events of political, civic, philanthropic, educational or religious organizations" on private property throughout the City without a permit or approval from the City. The provision does not specify the timeline that these signs are permitted to be displayed. This is problematic for election and referendum signs, as property owners would place them on their properties prior to the election or referendum campaign period or fail to remove them afterwards. In the absence of a time parameter

for displaying election and referendum signs, the City cannot compel property owners, candidates and political parties to remove their signs or determine if a sign has been abandoned.

Upon review of neighbouring municipality's bylaws, sign timelines related to elections vary as follows:

- **City of Vancouver:** No earlier than 45 days before general voting day and removed within 48 hours after the close of voting.
- **City of Surrey:** Signs removed within 14 days after the election.
- **City of Delta:** Signs are displayed no more than 30 days before general voting day and removed no later than 7 days after general voting day.
- **City of Coquitlam:**
 - **Federal and Provincial Elections:** no earlier than 30 days prior to the election and removed no later than 4 days after the election
 - **Municipal Election and School Trustee Election:** no earlier than 21 days prior to general voting day and removed no later than 4 days after general voting day.

Time limits set out by other municipalities appear to be based loosely on Provincial and Federal election legislation. The *Local Elections Campaign Financing Act*, Section 10(2) defines "campaign period" as follows:

*The **campaign period** in relation to an election is the period that*
(a) begins on the 28th day before general voting day for the election, and
(b) ends, as applicable,
i. In the case of election by voting, at the close of general voting day for the election, or
ii. In the case of an election by acclamation, at the end of general voting day.

The *BC Elections Act* defines "election period" as follows:

"election period" means, in relation to an election, the period between when the writ for the election is issued and the date set for the return of that writ;

In BC, the "election period" for the provincial election is typically the 28 days before the designated general voting day.

The *Canada Elections Act* defines "election period" as follows:

Election period means the period beginning with the issue of the writ and ending on the polling day or, if the writ is withdrawn under subsection 59(1) or is deemed to be withdrawn under subsection 31(3) of the *Parliament of Canada Act*, on the day that the writ is withdrawn or deemed to be withdrawn.

Upon review of neighbouring City Bylaws, the *Canada Elections Act*, *BC Elections Act* and the *Local Elections Campaign Financing Act*, it is recommend that temporary election signs be allowed on private property during the campaign period or election period as defined in these statutes and be required to be removed no later than 4 days after general voting day. Similarly, it is recommended that referendum signs be required to be removed no later than 4 days after the public referendum has been held. The inclusion of these requirements in the *Sign Bylaw 1972* would allow City staff to better enforce removal of signs outside the campaign and referendum periods.

7.0 BYLAW VIOLATION PENALTIES

Currently, the *Burnaby Sign Bylaw 1972* provides for enforcement of contraventions by way of a long form prosecution, with a maximum of \$10,000. This process is time-consuming and typically used only to address extreme bylaw contraventions. Penalties imposed pursuant to the *Burnaby Bylaw Notice Enforcement Bylaw 2009* are more practical and cost-effective enforcement measures.

In order to encourage compliance with the *Burnaby Sign Bylaw 1972*, and to offset some of the costs associated with enforcement, penalties are proposed to be imposed by way of the *Burnaby Bylaw Notice Enforcement Bylaw 2009*. In review of neighbouring municipalities, including Richmond, Vancouver and Coquitlam, the typical fine is \$1,000 per violation under their Municipal Ticket Information (MTI) Bylaws. Burnaby does not have a MTI bylaw and instead relies on the bylaw violation notice process under the *Burnaby Bylaw Notice Enforcement Bylaw 2009*, which has a more efficient enforcement and appeal process but can only provide for a maximum penalty of \$500. In the cases of continuing or multiple contraventions of an egregious nature, a combination of penalties can be applied to increase the cumulative penalty amount.

To enforce the additional provisions proposed in this report and related bylaw provisions of concern, the following penalties for contraventions of the following sections of the *Burnaby Sign Bylaw 1972* are proposed to be added to the *Burnaby Bylaw Notice Enforcement Bylaw 2009*:

- \$500 penalty – section 5.1(2), which prohibits signs which create a hazard to safe, efficient movement of vehicular or pedestrian traffic

- \$300 penalty – proposed section 5.1(10), which prohibits placing a sign on private property without the consent of the owner or occupier
- \$300 penalty - section 5.3(1), which prohibits displaying signs on public property unless an exception in the *Burnaby Sign Bylaw 1972* applies
- \$300 penalty – section 6.2(1), which prohibits erecting, placing, displaying, rebuilding, reconstructing, altering or moving any sign without a permit or approval from the City, unless an exception in the *Burnaby Sign Bylaw 1972* applies

8.0 PROPOSED BYLAW AMENDMENTS

Staff proposes Council authorize the City Solicitor to bring forward the following bylaw amendments based on the recommendations in this report.

Burnaby Sign Bylaw 1972 Amendments

- Amend section 2 to add the following definitions:

“Campaign Period” means the:

- (a) “election period” as defined in the *Canada Elections Act* for an election subject to that act;
- (b) “campaign period” as defined in the *Election Act* for an election subject to that act; and
- (c) “election period” as defined in the *Local Elections Campaign Financing Act* for an election subject to that act

“Election Temporary Sign” means a sign promoting or opposing, directly or indirectly:

- (a) a candidate in an election; or
- (b) a party or organization that endorses a candidate in an election

- Add the following as section 5.1(10):

5.1 (10) No person shall erect, place or maintain a sign on private property without the consent of the owner or occupier of the property and in the case of a sign placed on a property that does not contain any inhabited buildings, such consent must be in writing and be produced to the City promptly upon request.

- Add the following as sections 6.7, 6.8 and 6.9:

6.7 Removal of Signs

A bylaw enforcement officer appointed to enforce this bylaw may:

- (a) remove and impound any sign placed unlawfully on any portion of highway as defined in the Community Charter or other public place;
- (b) order, either orally or in writing, an owner or occupier of a private property to remove a sign that contravenes this bylaw from the property or otherwise remedy the contravention within a reasonable time as specified by the bylaw enforcement officer; and
- (c) if a person fails to comply with an order issued under this bylaw in relation to a sign on a private property, enter onto the property and remove and impound the sign.

6.8 Fee for Removal of Signs

If the City removes a sign pursuant to this bylaw, the owner of the sign shall be liable to pay the City a \$50.00 removal fee, and such fee must be paid when the owner claims the sign from the City.

6.9 Claiming and Disposal of Removed Signs

An owner of sign removed by the City may claim it by contacting the City's Engineering Department. If the owner does not claim the sign and pay the applicable fee under this bylaw within 3 business days of the sign's removal, the City will deem the sign as abandoned and will dispose of the sign.

- Add the following to the end of section (9) in Schedule 1:
 - (vi) no election temporary signs shall be erected, placed or maintained on private property at any time other than during the campaign period and the four days that immediately follow the campaign period; and

- (vii) no temporary signs relating to a public referendum may be erected, placed or maintained on private property more than four days after the public referendum has been held.

Burnaby Bylaw Notice Enforcement Bylaw 2009 Amendment

- add the following penalties to Schedule A of the *Burnaby Bylaw Notice Enforcement Bylaw 2009* under the section relating to the *Burnaby Sign Bylaw 1972*:

Bylaw Section		Penalty Amount	Discounted Penalty (within 15 days)	Compliance Agreement Available (50% reduction)
5.1(2)	Sign which creates hazard to vehicular or pedestrian traffic	\$500	\$400	NO
5.1(10)	Placing a sign on private property without the consent of the owner or occupier	\$300	\$240	YES
5.3(1)	Displaying unauthorized signs on public property	\$300	\$240	YES
6.2(1)	Erecting, placing, displaying, rebuilding, reconstructing, altering or moving sign without City permit or approval	\$300	\$240	YES

9.0 CONCLUSION

Bylaw amendments are proposed to encourage compliance with the *Burnaby Sign Bylaw 1972*, reduce resident complaints, and decrease the City's enforcement operational burden over time. The additional bylaw requirements, authorities and penalties are not intended to change the City's enforcement approach - to first seek voluntary compliance - but are intended as a mechanism for further encouraging compliance when voluntary compliance is not achieved.

To: City Manager
From: Director Engineering
Re: Sign Bylaw Enforcement Measures
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Staff recommends that Council authorize the City Solicitor to bring forward the amendments to the *Burnaby Sign Bylaw 1972* and the *Burnaby Bylaw Notice Enforcement Bylaw 2009*, as outlined in Section 8.0 of this report. Copies of these bylaw amendments appear elsewhere on the Council agenda.



for

Leon A. Gous, P.Eng., MBA
DIRECTOR ENGINEERING

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Copied to: Director Corporate Services
Director Public Safety and Community Services
City Solicitor
Director Finance
Director Planning and Building