Agenda – Council – September 20, 2018

Report – Standing Policy Committee on Protection, Community Services and Parks – September 11, 2018

Item No. 3 Handbills and Posters – Neighbourhood Liveability By-law Review

STANDING COMMITTEE RECOMMENDATION:

On September 12, 2018, the Executive Policy Committee concurred in the recommendation of the Standing Policy Committee on Protection, Community Services and Parks and submitted the following to Council:

1. That Council enact an amendment to the Neighbourhood Liveability By-law (as detailed in the draft By-law, attached) which will:

   A. clarify when a provision applies to poster installations, and

   B. clearly identify the responsibilities of persons installing posters and the defined consequences for non-compliance to these regulations.

2. That the Proper Officers of the City be required to do all things necessary to implement the intent of the foregoing.

Report – Standing Policy Committee on Protection, Community Services and Parks – September 11, 2018

DECISION MAKING HISTORY:

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On September 12, 2018, the Executive Policy Committee concurred in the recommendation of the Standing Policy Committee on Protection, Community Services and Parks and submitted the matter to Council.

STANDING COMMITTEE RECOMMENDATION:

On September 11, 2018, the Standing Policy Committee on Protection, Community Services and Parks concurred in the recommendation of the Winnipeg Public Service and submitted the matter to the Executive Policy Committee and Council.

ADMINISTRATIVE REPORT

Title: Handbills and Posters – Neighbourhood Liveability By-law Review

Critical Path: Standing Policy Committee on Protection and Community Services – Executive Policy Committee – Council

AUTHORIZATION			
Author	**Department Head**	**CFO**	**CAO**
W. Yee	C. Fernandes	N/A	D. Wardrop, Acting CAO

EXECUTIVE SUMMARY

The Winnipeg Public Service has completed a process to review Part 4 of the Neighbourhood Liveability By-law: Handbills, Posters, Roadside Memorials and Temporary Signs on Streets. This review consisted of a stakeholder engagement process with local Business Improvement Zones to discuss problems with postering on private property, a jurisdictional scan of best practices in other Canadian municipalities, and a technical analysis of the applicable By-Law section.

As a result of this review process, the Public Service proposes several technical amendments to Part 4 of the Neighbourhood Liveability By-law, as outlined in this report, to improve clarity concerning which provisions apply to posters and which apply to signs other than posters.

RECOMMENDATIONS

1. That Council enact an amendment to the Neighbourhood Liveability By-law (as detailed in the draft By-law, attached) which will:
    a. clarify when a provision applies to poster installations, and
    b. clearly identify the responsibilities of persons installing posters and the defined consequences for non-compliance to these regulations.

2. That the Proper Officers of the City be required to do all things necessary to implement the intent of the foregoing.

REASON FOR THE REPORT

On October 9, 2015, the Standing Policy Committee on Protection and Community Services directed the Winnipeg Public Service to conduct a review, in consultation with Business Improvement Zones, of Part 4 of the Neighbourhood Liveability By-law No. 1/2008 (“NLB”) and make recommendations for the purposes of providing clarity and defined consequences for postering on public and private property.

IMPLICATIONS OF THE RECOMMENDATIONS

The proposed technical amendments as outlined in the attachment will provide greater clarity for the public concerning which provisions of the NLB apply to posters and which apply to other forms of signage.

There are no financial or operational implications associated with these recommendations.

HISTORY/DISCUSSION

Stakeholder Engagement Process

On September 16, 2015, delegations from three Business Improvement Zones attended the City Centre Community Committee meeting and presented various postering-related issues that were negatively impacting the Zones. The issues presented were primarily focused on installation locations and the aftereffects of postering, such as consequential damage due to installation methods, and the buildup of posters due to owners or installers not removing posters in a timely manner (thus resulting in unsightly or litter conditions).

On April 19, 2017, Community By-law Enforcement Services held a stakeholder meeting inviting all Business Improvement Zones (BIZ). Representatives from six of the BIZ attended to discuss postering and its impacts on their respective areas. Based on those discussions, it was determined that:

- The current wording of the NLB may have led to stakeholder impressions that the By-law lacked any form of regulation or penalties related to the use of posters when compared to other municipalities.

- There was no consensus as to how stakeholders would like to see posters further regulated in Winnipeg, as the majority of those present were not interested in any major shift in regulations but instead were interested in increased By-law enforcement.

- There was no consensus that postering be banned in totality (only one delegate presented in favour of this argument).

- Improved/expanded communication on this aspect of NLB is needed.

Jurisdictional Scan

In 2016, the Strategic Management & Business Support Services Division of Community Services conducted a jurisdictional scan, with 9 out of 10 Canadian municipalities responding to our survey. The survey covered three categories: by-laws, enforcement activities, and poster boards. The results of this survey found that:

- Winnipeg's by-laws were comparable with how other surveyed cities regulated postering by holding the person installing the poster ultimately responsible for its timely removal.
- Winnipeg's reactive enforcement approach was comparable with how other surveyed cities deal with infractions.
- There is no consistent approach to poster board regulation in Canada:

- Calgary reported having no poster boards
- Edmonton reported that all poster boards were privately-owned
- Toronto entered into a long-term public/private arrangement
- Winnipeg and the remaining surveyed cities had a mixed approach towards poster boards (providing a mix of some form of public space and allowing private installations).

Technical Analysis of Part 4 of the Neighbourhood Liveability By-Law

A technical analysis of Part 4 of the NLB concluded that the current terminology used in Part 4 has contributed to a public misunderstanding of poster regulation in Winnipeg. Specifically, a "poster" is defined in the By-law as a kind of sign and is often regulated as part of this broader category. The fact that posters are not specifically identified in some key provisions has resulted in the view that posters are not regulated by those provisions.

- For example, Part 4, section 60 prohibits the installation of signs that obstruct or create a hazard for pedestrians or vehicles, cause damage to trees or structures in the street, are located in a median, or are attached to a pole, wall or other structure with staples or nails. It also requires that the person posting the sign must include the name and telephone number of the person placing it and that that person must remove it within 14 days of posting it.

All of the above regulatory details apply to posters as well as other signs, but this lack of differentiation between the two mediums may be missed due to the broad definitions as provided by the NLB. Accordingly, the proposed amending By-law will separate "poster" from the category of "sign" so that it is clear when provisions apply to posters as well as other types of signs.

Currently, Community By-law Enforcement Services (CBES) is the primary responder to any request for service to investigate and enforce the NLB. Complaint records indicate that CBES responded to 164 "Part 4" NLB service requests in 2016 and 2017, with only 14 of those complaints making specific reference to "posters". These low numbers may not accurately represent the level of concern about postering in Winnipeg, but may reflect cultural acceptance of posters and the widespread but erroneous belief that posters are largely unregulated under the NLB.

Other Review Observations

Contraventions of Part 4 of the NLB already carry financial penalties that are enforceable under the City of Winnipeg Municipal By-law Enforcement Act (MBEA) Enabling By-law. Penalties for an individual found in contravention of Part 4 range from $150 to $200 and penalties for a Corporation found in contravention range from $300 to $400 per infraction. This report recommends no changes to these fines.

The proposed amending By-law also contains some formatting changes: for ease of reference, the definitions that are only used in Part 4 have been moved from the definition section at the beginning of the NLB to the beginning of Part 4. In addition, since the Local Authorities Elections Act has been replaced with a reference to the Municipal Councils and School Boards Elections Act, reference to the former Act in Part 4 has been replaced with a reference to the latter.

FINANCIAL IMPACT

Financial Impact Statement Date: August 16, 2018

Project Name:

Handbills and Posters - Neighbourhood Liveability By-Law Review

COMMENTS:

There are no financial implications with respect to the recommendations of this report.

"Original Signed By"
Kelly Lemoine, CPA, CA
Manager of Finance & Administrative Services
Community Services Department

CONSULTATION

This Report has been prepared in consultation with:

Legal Services (as to legal matters)

OURWINNIPEG POLICY ALIGNMENT

03-2 VITALITY – DIRECTION 6:
Promote cleanliness and beautification

03-3 CREATIVITY – DIRECTION 4:
Support and enable meaningful community expression

03-3 CREATIVITY – DIRECTION 6:
Promote awareness of the richness of Winnipeg's Arts and Culture within and outside Winnipeg

SUBMITTED BY

Department: Community Services Department
Division: Community By-law Enforcement Services
Prepared by: John Lorbis
Date: August 16, 2018
File No: CMS-2016-12

Attachments