

The Corporation of the City of Port Colborne

By-Law No. _____

Being a by-law to regulate Election Signs
in the City of Port Colborne

Whereas Section 9 of the *Municipal Act*, 2001 S.O. 2001, c.25 provides a municipality with the capacity, rights, powers, and privileges of a natural person for the purpose of exercising its authority under this or any other Act; and

Whereas Municipal Act, S.O., 2001, c.25, Section 11(3) provides for the specific spheres of jurisdiction under which the lower and upper tier municipalities may pass bylaws respecting specific matters including matters with respect to signs and

Whereas subsection 63 (1) of the Municipal Act, 2001, S.O. 2001, c. 25, as amended, provides that a By-law may prohibit or regulate the placing or standing of an object on or near a highway, and may provide for the removal and impounding or restraining and immobilizing any object placed or standing on or near a highway; and

Whereas Section 425 of the Municipal Act, 2001, S.O. 2001, c. 25, as amended, establishes that any person who contravenes any by-law of the City of Port Colborne is guilty of an offence; and

Whereas Section 445 of the Municipal Act, 2001, S.O. 2001, c. 25, as amended, provides that a municipality may make an order requiring a person who has contravened a by-law or who caused or permitted the contravention, or the owner or occupier of land on which the contravention occurred to do work to correct the contravention; and

Whereas Section 446 of the Municipal Act, 2001, S.O. 2001, c. 25, as amended, provides that where a municipality has the authority to direct or require a person to do a matter or thing, the municipality may also provide that, in default of it being done by the person directed or required to do it, the matter or thing shall be done at the person's expense, and that the municipality may recover the costs of doing a matter or thing by action or by adding the costs to the tax roll and collecting them in the same matter as property taxes; and

Whereas at its meeting of April 8, 2022, the Council of The Corporation of the City of Port Colborne (Council) approved the recommendations of the Development and Legislative Services Department, Report No.2022-74, Subject: Election Sign By-law; and

Whereas Council of The Corporation of the City of Port Colborne is desirous of a by-law to regulate the erection of signs for federal, provincial and municipal elections; and

Now therefore the Council of The Corporation of the City of Port Colborne enacts as follows:

Part 1 – Title and Definitions

1. Short Title

1.1 This by-law shall be referred to as the Election Sign By-law.

2. Definitions

2.1 The following terms are defined for the purposes of this By-law:

- a) "By-Election" means any Election other than a regular Election in the case of a municipal Election or a general Election in the case of a provincial or federal Election.
- b) "Campaign Office" means a building or structure, or part of a building or structure used by a Candidate to conduct an election campaign.
- c) "Candidate" means:
 - i. A Candidate within the meaning of the Canada Election Act, the Election Act (Ontario) or the Municipal Elections Act, 1996 as amended; and
 - ii. Shall be deemed to include a person seeking to influence other persons to vote for or against any question or by-law to the electors under section 8 of the Municipal Elections Act, 1996 as amended.
- d) "City" means the Corporation of the City of Port Colborne, Ontario and its geographical boundaries.
- e) "Clerk" means the City Clerk or a person delegated by them for the purpose of administering this By-law.
- f) "Council" means the Council of the Corporation of the City of Port Colborne.
- g) "Election Sign" means any sign, including posters, promoting, opposing or taking a position with respect to:
 - i. Any Candidate or political party in an election under the Canada Elections Act, the Election Act (Ontario) or the Municipal Elections Act, 1996;
 - ii. An issue associated with a person or political party in an election under the Canada Elections Act, the Election Act (Ontario) or the Municipal Elections Act, 1996; or
 - iii. A question, law or by-law submitted to the electors under the Canada Elections Act, the Election Act (Ontario) or the Municipal Elections Act, 1996.

For the purposes of clarification, an Election Sign includes a Third Party Advertisement.

- h) "Electoral District" means a geographic area represented by a Member of Municipal Council, Member of School Board, Member of Provincial Parliament in the Legislative Assembly of Ontario, and Member of Federal Parliament in the House of Commons.
- i) "Enforcement Officer" – means a Municipal Law Enforcement Officer of The City of Port Colborne, Chief Building Official or other person appointed or employed by The City of Port Colborne for the enforcement of by-laws. and shall include members of the Niagara Regional Police Service or the Ontario Provincial Police Service.
- j) "Highway or Street" means a common and public highway, street, avenue, parkway, driveway, square, place, bridge, viaduct, or trestle, designed and intended for, or used by, the public for the passage of vehicles but for the purposes of this by-law does not include

highways under the jurisdiction of the Region or the Ministry of Transportation of Ontario.

- k) "Illumination" shall mean lighting of the Election Sign, in whole or in part, by artificial means, and when used in reference to:
 - i. internal illumination, means lighting the sign face with a light source located within the sign;
 - ii. external illumination, means having a light source exterior to the sign and on, or directed at, the sign; and
 - iii. flashing illumination shall mean illumination that varies and is perceived to vary in intensity or design at periodic intervals.
- l) "Median Strip" means the portion of a Street so constructed as to separate traffic travelling in one direction from traffic travelling in the opposite direction by a physical barrier or a raised or depressed paved or unpaved separation area that is not intended to allow crossing vehicular movement and includes a central island in a roundabout.
- m) "Nomination Day" means the deadline to file a nomination with the Clerk under the Municipal Election Act, 1996 as amended.
- n) "Owner" means the registered Owner of the property, tenant, or lessee on which an Election Sign is Placed; any person described on or whose name, image, address, or telephone number appears on the Election Sign; any Person who has Placed or permitted to be Placed the Election Sign; and for the purposes of this by-law there may be more than one Owner of an Election Sign.
- o) "Park" shall mean any land which the City owns or has the use of that is designated by Council as such and intended to be used and enjoyed by the public for pleasure and recreation and shall include any body of water enjoyed or used in connection therewith.
- p) "Person" means any individual, Candidate, Owner, Registered Third Party, occupant, association, firm, partnership, corporation, agent or trustee and the heirs, executors, or other legal representatives of a person to whom the context can apply according to law.
- q) "Place" means attach, install, erect, build, construct, reconstruct, move, display, or affix.
- r) "Private Property" means real property under private ownership.
- s) "Public Property" means real property owned by or under the control of the City; including a Park, or any of its agencies, local boards, commissions, or corporations but, for the purposes of this by-law but does not include a Highway.
- t) "Public Utility Facility" means a pole, transformer box, service container, equipment, or other such structure, owned or controlled by an entity which provides a municipal or public utility service.
- u) "Region" means The Regional Municipality of Niagara.
- v) "Registered Third Party" shall mean, an individual, corporation or trade union that is registered under section 88.6 of the Municipal Elections Act, 1996.
- w) "Sidewalk or Trail" means any municipal walkway, or that portion of a Highway between the roadway and adjacent property line,

primarily intended for the use of pedestrians.

- x) "Sight Triangle" means an area on a corner lot within the triangular space formed by the street lines and a line drawn from a point in one street line to a point in the other street line.
- y) "Third Party Advertisement" shall mean an advertisement in any broadcast, print, electronic or other medium that has the purpose of promoting, supporting, or opposing a candidate or a 'yes' or 'no' answer to a question referred to in subsection 8 (1), (2) or (3) of the Municipal Elections Act, 1996 and has been erected or displayed without the authorization, direction or involvement of a Candidate.
- z) "Trailer" means a Vehicle or device that is intended to at any time be drawn, temporarily drawn, propelled, or moved upon a Highway by a motor vehicle and for the purposes of this by-law shall include but not be limited to a wagon, implement of husbandry, trailer designed for recreational purposes or commercially registered vehicle or trailer.
- aa) "Vehicle" includes any means of transportation propelled or driven by any kind of power including muscular power.
- bb) "Voting Place" means the location(s) where electors cast their ballots as approved by the federal, provincial, or municipal Election officials and includes the entire property and all the boundaries associated with it, including any abutting Streets, when such Voting Place is located within a public or private premises and shall also include the common elements when the Voting Place is located within a private premises.
- cc) "Writ of Election" means the date as defined in the Canada Elections Act and the Elections Act (Ontario).

Part 2 – Application of the By-law

3. Interpretation

- 3.1 In this by-law, a word interpreted in the singular number has a corresponding meaning when used in the plural.
- 3.2 Nothing in this by-law shall be interpreted as reducing or eliminating compliance with the provisions of all applicable federal or provincial statutes.

4. Severability

- 4.1 Should any paragraph, clause or provision of the By-law be declared invalid by a court of competent jurisdiction, the same shall not affect the validity of the By-law as a whole or any part of thereof, other than the part which was declared to be invalid.
- 4.2 When any requirement of this by-law is at variance with any other by-law in effect in the City or with any applicable provincial or federal statute or regulation, the more restrictive requirement shall apply unless otherwise stated in such legislation.

Part 3 – General Provisions

5. General Prohibitions

- 5.1 No Person shall Place or permit to be Placed an Election Sign except in accordance with this by-law.
- 5.2 No Person shall Place or permit an Election Sign that:
 - 5.2.1 Is Illuminated.
 - 5.2.2 Interferes with the safe operation of vehicular traffic or the safety of pedestrians.
 - 5.2.3 Impedes or obstructs the City's maintenance operations.
- 5.3 No Person shall Place or permit an Election Sign:
 - 5.3.1 On a Public Utility Facility.
 - 5.3.2 On any City official sign or sign structure.
 - 5.3.3 On or in a Voting Place.
 - 5.3.4 On any abutting Streets of a Voting Place
 - 5.3.5 On or within a Vehicle or Trailer parked with 50 metres of a Voting Place.
 - 5.3.6 On or within a Vehicle or Trailer parked on Public Property.
- 5.4 No Person shall deface or willfully cause damage to a lawfully erected Election Sign.
- 5.5 No Registered Third Party shall Place a Third-Party Advertisement that does not contain valid and up-to-date contact information, including the name of the Registered Third Party, the municipality where the Registered Third Party is registered, and a telephone number, mailing address or e-mail address at which the Registered Third Party may be contacted, in order to identify at least one individual responsible for the Placing of the Third-Party Advertisements including any Election Sign(s).
- 5.6 No Person shall Place an Election Sign in such a position that such Election Sign would contravene any other applicable legislation.
- 5.7 No Person shall Place or permit to be Placed an Election Sign outside of the Electoral District where the Candidate is running for office.
- 5.8 No Person shall display on any Election Sign, a logo, trademark, official mark, or crest, in whole or in part, owned by the City.
- 5.9 Notwithstanding the requirements of any other by-law, no sign permit is required for an Election Sign.

6. Time Restrictions

- 6.1 No person shall Place or permit to be Placed an Election Sign for a municipal election earlier than forty-five (45) days before Voting Day.
- 6.2 No Person shall Place or permit to be Placed an Election Sign for a

federal or provincial election or By-election earlier than the day the Writ of Election or By-election is issued.

- 6.3 Despite Section 6.1 and 6.2 of this By-law, Election Signs may be erected at a Campaign Office once the Candidate has filed his or her nomination papers and paid the required filing fee. For the purpose of this section, a candidate may designate only one building or part thereof in the municipality as the Campaign Office at any one time and must advise the Clerk, in writing, of the address of the Campaign Office prior to erecting the signs authorized by this section.
- 6.4 No Person shall fail to remove an Election Sign within five (5) days immediately following 11:59 p.m. of the day of the election.

7. Election Signs on Public Property

- 7.1 No Person shall Place or permit to be Placed an Election Sign on Public Property.
- 7.2 No Person shall Place or permit to be Placed an Election Sign:
- 7.2.1 On a Highway
 - 7.2.2 Within a Sight Triangle
 - 7.2.3 Within 1 metre of a Highway
 - 7.2.4 Between a Highway and Sidewalk
 - 7.2.5 That impedes or obstructs the passage of pedestrians on a Sidewalk
 - 7.2.6 Along a Trail system
 - 7.2.7 In a Median Strip
 - 7.2.8 Within 3 metres of a Crosswalk
 - 7.2.9 On a tree, fence or gate located on Public Property
 - 7.2.10 That has a sign area larger than 3 square metres.
- 7.3 This by-law shall not apply to any highways or road allowances under the jurisdiction of the Ministry of Transportation of Ontario or the Regional Municipality of Niagara. Election candidates shall be responsible for compliance with the signage by-laws and regulations of The Regional Municipality of Niagara and Province of Ontario (including the Ministry of Transportation) as the case may be.

8. Election Signs on Private Property

- 8.1 Election Signs may be Placed on private property if:
- 8.1.1 The Election Signs are no larger than 3 square metres.
 - 8.1.2 The Election Signs do not interfere with the safe operation of vehicular traffic or with the safety of pedestrians.
- 8.2 No Person shall Place or permit to be Placed an Election Sign on Private Property without consent of the Owner of the property.
- 8.3 No Person shall Place or permit to be Placed an Election Sign on private property within 1.0 m of the Highway or within a Sight Triangle.

- 8.4 No Person shall Place or permit to be Placed more than two (2) Election Signs per Candidate or Registered Third Party on any Private Property.
- 8.5 No Person shall pull down or remove a lawfully erected Election Sign on private party without the consent of the Candidate to the sign, Registered Third Party or Owner of the property on which the sign is erected.

9. Removal/Storage/Disposal of Unlawful Election Signs

- 9.1 The Municipal Law Enforcement Officer may remove any Election Sign in contravention of this by-law without notice.
- 9.2 Where an Election Sign has been removed, notice shall be forwarded to the Candidate or Registered Third Party by personal service, email, or regular post, in which case the notice shall be deemed to have been received on the fifth day following the date the notice was sent.
- 9.3 Signs removed pursuant to this Section shall be stored by the City for a period of not less than 30 days, during which time the Candidate or Registered Third Party may be entitled to redeem, upon payment for the removal and storage fees as prescribed in the City's Fees and Charges By-law as amended, satisfactory to the City.
- 9.4 Where an Election Sign has been removed by the City and notice provided in accordance with Section 9.2 and stored for a period of at least 30 days and the Election Sign has not been redeemed, the sign may be forthwith destroyed or otherwise disposed of by the City and the Candidate will be invoiced for the removal and related storage fees.

Part 4 – Enforcement

10. Enforcement

- 10.1 A Municipal Law Enforcement Officer shall be permitted to enter onto land at any time for the purpose of enforcing this by-law and any orders or conditions imposed under the authority of this by-law.
- 10.2 No Person shall hinder or obstruct or attempt to hinder or obstruct the entry or the inspection of any property by a Municipal Law Enforcement Officer or otherwise hinder or obstruct a Municipal Law Enforcement Officer exercising a power or performing a duty under this By-law or Act.

11. Offences and Penalties

- 11.1 Every Person who contravenes any section of this by-law is, upon conviction, guilty of an offence and shall be liable to a fine as provided for by the Provincial Offences Act, R.S.O. 1990, c.P. 33, as amended, and be subjected to any other penalties permitted by law for each offence.
- 11.2 Any person who contravenes any of the provisions of this By-law and each Owner, when given a Penalty Notice in accordance with the City's Administrative (Non-Parking) Penalty By-law, is liable to pay the City an administrative penalty in the amount specified in the City's Administrative (Non-Parking) Penalty By-law, as amended from time to time."

Part 5 – Repeal

12. By-law Number 4879/104/06 and all amendments thereto are hereby repealed.

Enacted and passed this 8th day of April, 2022.

Eric Beauregard
Deputy Mayor

Nicole Rubli
Acting City Clerk