

THE CORPORATION OF THE TOWN OF KINGSVILLE

BY-LAW 76-2018

Being a by-law to regulate election signs in the Town of Kingsville

WHEREAS section 5(3) of the *Municipal Act, 2001*, S.O. c. 25, as amended, provides that a municipal power shall be exercised by by-law;

AND WHEREAS subsection 8(1) of the *Municipal Act, 2001*, S.O. c. 25, as amended, provides that the powers of a municipality shall be interpreted broadly so as to confer broad authority on the municipality to enable the municipality to govern its affairs as it considers appropriate and to enhance the municipality's ability to respond to municipal issues;

AND WHEREAS paragraph 7 of subsection 11(3) of the *Municipal Act, 2001*, S.O. c. 25, as amended, permit a municipality to pass by-laws respecting signs;

AND WHEREAS section 99 of the *Municipal Act, 2001*, S.O. c. 25, as amended, sets out rules that apply to a by-law of the municipality respecting advertising devices, including signs;

AND WHEREAS the Council of the Corporation of the Town of Kingsville deems it necessary to regulate election signs within the Town of Kingsville;

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWN OF KINGSVILLE ENACTS AS FOLLOWS:

1. Definitions

1.1 In this By-law,

"Ballot Return Station" means a place where electors can return their completed ballots rather than returning them to the Town by mail, and includes the Street abutting;

"By-law" means by-law XX-2018, being a by-law to regulate election signs in the Town of Kingsville;

"Enforcement Officer" means any person responsible for by-law enforcement in the Town, including the Police, or persons that have been appointed as a by-law enforcement officer by the Council of the Town;

"Campaign Office" means a building or structure, or part of a building or structure, used by a Candidate to conduct an election campaign;

"Candidate" means a Candidate within the meaning of the *Canada Elections Act*, the *Election Act* (Ontario), or the *Municipal Elections Act, 1996*, as amended, and shall be deemed to include a Registered Third Party and any Person registered pursuant to any of the above-noted statutes, or an agent for that registered Person, who is seeking to influence how another person votes in an Election;

"Clerk" means the Clerk of the Town, or a person delegated by them for the purposes of this By-law;

"Council" means the municipal council for the Town;

“Election” means any federal, provincial or municipal election, including any by-election, and any question or by-law submitted to the electors and includes an election to a local board or commission;

“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*;

“Median Strip” means the promotion of a Road 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;

“Park” means any land and land covered by water, and all portions thereof under the control, management, or joint management of the Town, that is or hereafter may be established, dedicated, set apart, or made available for use as public open space, including a natural park area and any environmentally significant area as defined in this By-law, including any buildings, structures, erections, facilities, and improvements located in or on such land;

“Person” includes, but is not limited to an individual, firm, corporation, association, or partnership;

“Place” means attach, install, erect, build, construct, reconstruct, move, display or affix;

“Public Property” means any real property, including a Park, owned by or under the control of the Town, or any of its agencies, local boards, commissions, or corporations but, for the purposes of this by-law, does not include a Street;

“Registered Third Party” means, in relation to an election in a municipality, an individual, corporation, or trade union that is registered under section 88.6;

“Roadway” means the part of a Street that is improved, designed or ordinarily used for vehicular traffic and includes a shoulder;

“Sidewalk” means any municipal walkway, or that portion of the Street between the Roadway and the adjacent property line, primarily intended for the use of pedestrians;

“Street” means a highway, road allowance, street, avenue, boulevard, parkway, driveway, land, square, place, bridge, viaduct, trestle or other public way under the jurisdiction of the Town and this term includes all road works and appurtenant to municipal land;

“Town” means The Corporation of the Town of Kingsville;

“Vehicle Sign” means any form of Election Sign Placed on or in a vehicle or trailer;

“Voting Day” means the day on which the final vote is to be taken in an election;

“Voting Place” means a place where electors cast their ballots and, regardless of whether the Voting Place is located on Public Property, includes the Street abutting;

“Writ of Election” means the date as defined in the *Canada Elections Act* and the *Election Act* (Ontario).

1.2 This By-law applies to all Election Signs displayed within the boundaries of the Town.

1.3 References to items in the plural include the singular, as applicable.

2. Prohibitions

2.1 No Person shall Place or permit to be Placed an Election Sign in the Town except in accordance with this By-law and any other applicable legislation.

2.2 No Person shall Place or permit to be Placed an Election Sign on or in any premises used as a Voting Place, Ballot Return Station, or where the administration of election processes are conducted.

2.3 No Person shall display on any Election Sign a logo, brand, trademark, slogan or official mark, in whole or in part, owned or licensed by the Town.

2.4 No person shall Place or permit to be Placed an Election Sign on Public Property.

2.5 No person shall Place or permit to be Placed an Election Sign in a Park.

2.6 No Person shall Place or permit to be Placed an Election Sign that:

2.6.1 is illuminated;

2.6.2 has a sign area of more than 1.5 square metres;

2.6.3 interferes with the safe operation of vehicular traffic or the safety of pedestrians; or

2.6.4 impedes or obstructs the Town’s maintenance operations.

2.7 Subsections 2.6.1 and 2.6.1 do not apply to Election Signs promoting a Candidate on a Campaign Office.

2.8 No Person shall Place or permit to be Placed an Election Sign that is in contravention of the *Election Act*, *Canada Elections Act*, or the *Municipal Elections Act, 1996*.

2.9 No Person shall remove a lawfully Placed Election Sign, except in accordance with this By-law, or with the permission of the owner.

2.10 No person shall deface or willfully cause damage to an Election Sign.

2.11 No person shall hinder or obstruct an Enforcement Officer in the enforcement of this By-law.

3. Timing of Placement

3.1 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.

- 3.2 No person shall Place, or permit to be Placed, an Election Sign for a municipal election, except an Election Sign which is Placed on a Campaign Office, earlier than 45 days prior to Voting Day in the year of a regular election or a by-election.
- 3.3 No person shall Place, or permit to be Placed, an Election Sign for a municipal election on a Campaign Office earlier than the day that Candidate has filed their nomination with the Clerk.
- 3.4 No person shall fail to remove an Election Sign more than 2 days after the last Voting Day for the Election.

4. General Provisions

- 4.1 No person shall Place or permit to be Placed an Election Sign on private property without the permission or consent of the owner or occupant of the property.
- 4.2 Every Election Sign must be maintained in a proper state of repair.
- 4.3 No person shall Place or permit to be Placed an Election Sign:
 - 4.3.1 in a Roadway;
 - 4.3.2 within 3 metres of a Roadway;
 - 4.3.3 between a Roadway and a Sidewalk;
 - 4.3.4 that impedes or obstructs the passage of pedestrians on a Sidewalk;
 - 4.3.5 in a Median Strip;
 - 4.3.6 less than 3 metres from a Crosswalk;
 - 4.3.7 on a tree, fence, wall, pole or gate located on Public Property or on a Street;
 - 4.3.8 on public utility poles;
 - 4.3.9 in a boulevard that abuts a Park;
 - 4.3.10 within 10 metres of another Election Sign of the same Candidate.
- 4.4 No Person shall Place or permit to be Placed an Election Sign that has a Sign Height:
 - 4.4.1 of more than 0.8 metres if located within an intersection site visibility triangle;
 - 4.4.2 of more than 2 metres when Placed within 3 to 8 metres of the Roadway;
 - 4.4.3 of more than 4 metres when Placed beyond 8 metres of the Roadway.
- 4.5 No Person shall injure or foul a Street or permit the injuring or fouling of a Street when Placing an Election Sign.
- 4.6 The Town shall not be liable for any damage or loss to an Election Sign that was Placed in accordance with this By-law or that was removed pursuant to the provisions of this By-law.

5. Vehicle Signs

- 5.1 No Person shall Place or permit to be Placed a Vehicle Sign except in accordance with this By-law.

- 5.2 The total area of the Vehicle Sign(s) Placed on or in any one vehicle shall not exceed 1.5 square metres.

6. Election Sign Security Deposit

- 6.1 A refundable security deposit in the amount of \$140.00 shall be paid to the Town prior to the Placement of any Election Sign for a Municipal Election.
- 6.2 A refundable security deposit in the amount of \$300.00 shall be paid to the Town prior to the Placement of any Election Sign for a Federal or Provincial Election.
- 6.3 Election Signs removed in accordance with this By-law shall be subject to a sign removal fee of \$20.00 per sign.
- 6.4 Election Sign removed in accordance with this By-law, the Candidate to whom the Election Sign belongs will be charged the amount outlined in provision 6.3, and such charges will be deducted from the security deposit.
- 6.5 If the costs incurred by the Town in removing a Candidate's Election Sign exceed the deposit paid to the Town by that Candidate, the Town shall notify the Candidate, who shall have five (5) days after the notice is received to pay the outstanding balance.
- 6.6 Subject to any deductions made pursuant to this By-law, a Candidate is entitled to have their security deposit refunded no later than ninety (90) days after Voting Day.

7. Administration and Enforcement

- 7.1 Where an Election Sign has been Placed contrary to this By-law, the Clerk or By-law Enforcement Officer may authorize the removal of the Election Sign without notice or compensation.
- 7.2 Election Signs that have been removed in accordance with provision 7.1, shall be stored for a period of not less than 14 days, during which time the Candidate or Candidate's agent may retrieve the sign, provided the Town receives full payment of the sign removal fee outlined in section 6.3.
- 7.3 Any Election Sign that has been stored for at least 14 days and has not been retrieved may be destroyed or otherwise disposed of without notice and without compensation.
- 7.4 Notwithstanding any other provision in this By-law, the Clerk or By-law Enforcement Officer is not required to store Election Signs made entirely of paper material and may authorize immediate disposal of such signs upon removal.
- 7.5 Where an Enforcement Officer has reasonable grounds to believe that an offence has been committed by a person under this By-law, the officer may require the name, address and proof of identity of that person, and the person shall supply the requested information.

8. Conflict and Severability

- 8.1 In the event of any conflict between this By-law and any County of Essex by-law, the County of Essex by-law shall prevail.
- 8.2 Each section of this By-law is an independent section, and the holding of any section or part of any section of this By-law to be void or

ineffective for any reason shall not be deemed to affect the validity of any other sections of this By-law.

9. Offence and Penalties

- 9.1 Every Person who contravenes any provision in this By-law is guilty of an offence and on conviction is liable to a fine as provided for in the *Provincial Offences Act*, R.S.O. 1990, c, P.33.
- 9.2 No Person shall prevent, hinder or interfere or attempt to prevent, hinder or interfere with an officer enforcing the provisions of this By-law.

10. Coming into Force

- 10.1 This by-law shall come into force upon third reading and being finally passed.

**READ A FIRST, SECOND AND THIRD TIME AND FINALLY PASSED THIS
9th DAY OF JULY, 2018.**

MAYOR, Nelson Santos

CLERK, Jennifer Astrologo