

THE CORPORATION OF THE TOWN OF LINCOLN

BY-LAW NUMBER 2022-28

A By-Law to manage and regulate election signs in the Town of Lincoln.

Whereas Section 11 of the *Municipal Act, 2001* authorizes the Corporation of the Town of Lincoln to pass by-laws respecting spheres of jurisdiction that include highways, structures, including fences and signs; and

Whereas Section 63 of the *Municipal Act, 2001* authorizes the Corporation of the Town of Lincoln, if it passes a by-law for prohibiting or regulating the placing of an object on a Highway, to provide for the removal of any object placed on a Highway in contravention of that by-law; and

Whereas Section 99 of the *Municipal Act, 2001* provides rules which apply to a by-law of a municipality respecting advertising devices, including signs; and

Whereas Section 425 of the *Municipal Act, 2001* establishes that any person who contravenes any by-law of the Corporation of the Town of Lincoln is guilty of an offence; and

Whereas Section 426 of the *Municipal Act, 2001* permits a municipality to establish a system of fines for offences under a by-law of a municipality passed under the *Municipal Act, 2001*; and

Whereas Section 436 of the *Municipal Act, 2001* authorizes a municipality to pass a by-law providing that the municipality may enter onto land at any reasonable time for the purpose of carrying out an inspection to determine compliance with a by-law, direction, order of licence; and

Whereas Subsection 446(1) of the *Municipal Act, 2001* provides that if a person is directed or required to do a matter or thing, 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

Whereas Subsection 446 (2) of the *Municipal Act, 2001* authorizes a municipality to enter upon land at any reasonable time for the purposes of Subsection 446(1); and

Whereas to provide clarity and ease of reference, Council for the Corporation of the Town of Lincoln deem it desirable to outline provisions related to Election Signs; and

Whereas Council for the Corporation of the Town of Lincoln recognize the importance of the right to freedom of expression and recognizes that Election Signs are a protected form of expression under the Canadian Charter of Rights and Freedoms; and

Whereas the Council for the Corporation of the Town of Lincoln seeks to protect the constitutional right to freedom of expression, subject only to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society.

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWN OF LINCOLN HEREBY ENACTS AS FOLLOWS:

1. Definitions

In this By-law:

“Act” means the *Municipal Elections Act, 1996*, S.O. 1996., c.32, Sched.

“Advance Voting Day” means one (1) or more days that are designed for electors to cast ballots prior to Voting Day.

“Boulevard” means the portion of the Road between a street line and the edge of the curb, or, where there is no curb, that portion of the Road which is travelled or designed to be travelled by vehicles, and includes medians, bulges and traffic islands.

“By-Election” means an election other than a regular Election.

“Campaign Office” means a building or structure, or part of a building or structure, used by a Candidate, an agent of a Candidate, a Registered Third Party, or a Registered Third Party as part of an Election campaign and is registered with the

Town Clerk as the Candidate or Registered Third Party's Campaign Office.

"Campaign Office Election Sign" means a sign displayed at a Campaign Office which displays the name of a Candidate in a municipal or school board Election, or with the name of a Candidate and/or the name and/or logo of a political party in a federal or provincial Election, or the name of a Registered Third Party and the location of the Candidate's or Registered Third Party's Campaign Office in any Election.

"Candidate" means:

- a) a candidate within the meaning of the Canada Elections Act, the Election Act (Ontario), or the Act; and
- b) 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 Act.

"Election Sign" means a sign, including but not limited to, posters, placards, bulletins, banners, notices and/or signs not permanently affixed to the ground and specifically designed and intended to be readily moved from place to place, which by the use of words, pictures or graphics or any combination thereof is intended to influence, promote, oppose or take a position with respect to:

- a) any Candidate or political party in an Election or By-Election under the Canada Elections Act, the Election Act (Ontario), or the Act; or
- b) an issue associated with a person or political party in an election under the Canada Elections Act, the Election Act (Ontario), or the Act; or
- c) a question, law or by-law submitted to the electors under the Canada Elections Act, the Election Act (Ontario), or the Act.

"Municipal Act" means the *Municipal Act, 2001*, S.O. 2001, c. 25.

"Municipal By-law Enforcement Officer" means a Municipal By-law Enforcement Officer appointed by the Town.

"Park" means any land or premises under the control and/or ownership of the Town for park and recreational purposes and includes any lane, walkway, or public parking area leading thereto, and also includes any and all buildings, structures, equipment, facilities, and improvements located in or on such land.

"Placed" means to attach, install, erect, build, construct, reconstruct, move, display or affix. "Places" and "Placing" shall have the same meaning.

"Private Property" means real property that is not a Boulevard, Public Property, or Road.

"Public Property" means land owned by the Town, the Corporation of the Regional Municipality of Niagara, the Province of Ontario, and includes any Boulevard or Road.

"Owner" means a Candidate, Third Party, or Registered Third Party who Places or permits the Placing of an Election Sign or any person described on the Election Sign, whose name, address, telephone number or email address is on the Election Sign or who benefits from the message of the Sign.

"Registered Third Party" means one of the following and whose notice of registration has been certified with the Town Clerk pursuant to subsection 88.6 (6) of the Act:

- a) an individual who is normally a resident of Ontario; or
- b) a corporation that carries on business in Ontario; or
- c) a trade union that holds bargaining rights for employees in Ontario.

"Road" means a common and public highway, street, avenue, parkway, driveway, square, place, bridge, viaduct or trestle, designed and intended for use by the general public for the passage of vehicles and includes all lands lying within the limits of the road allowance or right-of-way all of which are owned or within the jurisdiction of the Town.

"Sight Triangle" means a triangular space that is formed by the intersection of the boundaries or two (2) Roads of a corner lot, and a line joining two (2) points that

are six (6) metres back from the intersection. Where the two (2) road lines do not intersect at a point, the point of intersection of the projection of the road lines or the intersection of the angles to the road lines.

“Third Party” means any Person who is not a registered Candidate, political party, or constituency association who incurs expenses with respect to Third Party Advertisement.

“Third Party Advertisement” means an advertisement placed in any broadcast, print, electronic or other medium by a Registered Third Party, that has the purpose of promoting, supporting, or opposing:

- a) a Candidate; or
- b) a “yes” or “no” answer to a question referred to in subsection 8(1), (2), or (3) of the Act.

“Town Clerk” means the Director of Legislative Services/Town Clerk of the Corporation of the Town of Lincoln.

“Town” means the Corporation of the Town of Lincoln.

“Voting Day” means Voting Day as defined by the Act.

“Voting Location” means a place where electors cast their ballots as approved by the Federal, Provincial or Municipal Election Officials, and includes any street abutting when a Voting Location is located on Private Property or Public Property.

2. General Administration

2.1. The Town Clerk is responsible for the administration of this By-law.

2.2. No Candidate or Registered Third Party shall Place or permit to be Placed an Election Sign without obtaining an Election Sign permit and making payment of the prescribed Election Sign deposit.

2.3. The Election Sign permits shall be:

- a) in the form prescribed by the Town; and
- b) accompanied by the prescribed Election Sign deposit as set out in Section 9; and
- c) Election Sign deposits will be refunded within ninety (90) days after Voting Day, minus any deductions for the removal of any Election Signs by the Town.

2.4. Subject to subsection 2.3, for a Municipal Election, Election Signs shall only be Placed or permitted to be Placed:

- a) forty-five (45) days before Voting Day; or
- b) the day following Nomination Day for a By-election;

2.5. Election Signs Placed or permitted to be Placed by a Registered Third Party shall include the following information in accordance with the Act:

- a) the name of the Third Party;
- b) the municipality where the Third Party is registered; and
- c) contact information for the Third Party including a telephone number, mailing address and/or an email address.

2.6. A Third Party that does not register in accordance with the Act, *Election Act*, or *Canada Elections Act*, as the case may be, is not permitted to Place Election Signs.

3. Sign Guidelines

3.1. An Election Sign shall meet the following maximum size and height requirements:

- a) Height and width of 5 feet; and
- b) Shall be no higher than 1.5 metres (4.92 feet) above the ground, measured from the topmost point of the Election Sign.

4. General Prohibitions

- 4.1. No Owner or Person shall Place or permit to be Placed an Election Sign except in accordance with this By-law.
- 4.2. With respect to general prohibitions, no Owner shall Place or permit to be Placed an Election Sign that:
- a) display a logo, crest, trademark or official mark, in whole or in part, owned or licensed by the Town;
 - b) is illuminated, has flashing lights, or rotating parts;
 - c) simulates any traffic sign, traffic signal, any other sign that directs the movement of traffic, or any official sign;
 - d) uses words such as “stop”, “look”, “one way”, “danger”, “yield” or any similar phrases, symbols, lights or characters in such a manner as to tend to interfere with, mislead or confuse traffic;
 - e) is in a state of disrepair or is located where it is a general hazard to public safety;
 - f) impedes or obstructs the Town’s maintenance operations;
 - g) impedes or obstructs the passages of pedestrians where they are reasonably expected to walk;
 - h) is affixed to public utility poles, telephone poles, hydro poles, light standard or any other utility infrastructure;
 - i) is Placed on, painted on, attached to, or supported by a tree, stone or other natural object;
 - j) is Placed on a Road structure.
- 4.3. An Election Sign may be displayed on or in a motor vehicle provided:
- a) the display of such Election Sign is not contrary to the provisions of this By-law;
 - b) such Election Sign, if on the exterior of the motor vehicle, is mounted flush on the motor vehicle body;
 - c) such Election Sign is not displayed so as to contravene provisions of sections 73 (1) or 74 (1) of the *Highway Traffic Act, R.S.O. 1990, c.H.8.*
 - d) Election Signs, including signs attached to vehicles, are not permitted to be Placed in any way on Public Property or buildings, including but not limited to, municipal offices, town parks, cemeteries, arenas, libraries, and fire halls.
- 4.4. Election Signs for Candidates and/or Registered Third Parties related to Municipal Ward Councillor shall not be Placed outside of the Ward in which the Candidate seeks to represent.
- 4.5. No person shall deface or willfully cause damage to a lawfully erected Election Sign.
- 4.6. The Town or any of its municipal employees, agents or contractors will not be responsible for investigating or prosecuting for any acts of vandalism-to or theft-of Election Signs.

5. Public Property and Roads

- 5.1. In addition to the limitations in subsection 4.2, an Owner shall not Place or permit to be Placed an Election Sign on Public Property that is not in accordance with this By-law, and where applicable, the Ministry of Transportation’s requirements.
- 5.2. With respect to Public Property and Roads, no Owner shall Place or permit to be Placed an Election Sign that:
- a) is within a Park;
 - b) interferes with the safe operation of vehicular traffic or the safety of pedestrians, including the visibility of warning devices and traffic

signals;

- c) be Placed so as to impede, hinder or prevent parking by vehicles on private or public lands, or on a Road;
- d) is on a Road, except as otherwise permitted by this By-law;
- e) no Owner shall Place or to be Placed an Election Sign on a Road structure;
- f) is located 1.8 metres (6 feet) away from the face of the curb or edge of pavement of a Road and where there is a Sidewalk, not within 0.6 metres (2 feet) of such Sidewalk;
- g) clause 5.2 (f) does not apply when the Sidewalk is less than 0.6 metres (2 feet) from the main wall of the building, in which case the Election Sign shall be placed at the furthest distance possible from the Sidewalk or from the face of the curb or edge of pavement;
- h) is between the curb and the Sidewalk, where there is a Sidewalk;
- i) be Placed on a boundary fence line or noise attenuation wall which is located on Public Property;
- j) no Owner shall dig, drill or drive into asphalt, concrete, brick or any other hard improved surface on a Road when placing an Election Sign;
- k) is within a Sight Triangle;
- l) is less than 3 metres (9.8 feet) from or within a school zone.

6. Private Property

6.1. Subject to subsection 4.2, Election Signs are permitted on Private Property, provided that:

- a) the property owner, tenant, or occupant of the property consents; and
- b) no Election Sign shall be located so as to obstruct or impede any fire escape, fire exit, door, window, scuttle, skylight, flue or air intake or exhaust nor so as to prevent or impede the free access of emergency personnel to any part of the building including, but not limited to, emergency water connections, or fire hydrants.

6.2. No Owner shall Place or permit to be Placed an Election Sign on a right-of-way adjacent to a private residence unless permission has been granted by the property owner, tenant, or occupant of the property.

7. Removal of Election Signs

7.1. Subject to subsection 2.3, for a Municipal Election, every Person, Owner, Candidate or Third Party shall remove all Election Signs Placed or permitted to be Placed by the respective Person, Owner, Candidate or Third Party from all locations within two (2) days following Voting Day.

7.2. The Town Clerk or Municipal Law Enforcement Officer may remove any Election Sign Placed in contravention of this By-law without notice.

7.3. The Town Clerk may make regulations under this By-law prescribing rules and procedures for the retrieval and destruction of Election Signs removed under this By-law, without limitation, the form of and any information required to be provided to the Town Clerk to authorize the release of an Election Sign, dates on or by which an Election Sign may be retrieved or destroyed, and the manner in which notice may be given to an Owner relating to the retrieval and destruction of an Election Sign.

7.4. Election Signs that have been removed for contravention of this By-law will be subject to a penalty outlined in Section 9, which will be deducted from the acquired Election Sign deposit.

7.5. The Town Clerk or designate may destroy any Election Sign which has been removed and not claimed and retrieved by the Owner within ninety (90) days of Voting Day.

8. Power of Entry

8.1. The Town may enter on land at any reasonable time for the purpose of

carrying out an inspection to determine whether or not the provisions of this By-law are being complied with.

8.2. The Town's power of entry may be exercised by an employee, inspector, or agent of the Town or by a member of the police force with jurisdiction, as well by any person under their direction.

8.3. No person shall hinder or obstruct, or attempt to hinder or obstruct, a Municipal Law Enforcement Officer who is exercising a power or performing a duty under this By-law.

9. Fees

9.1. The prescribed Election Sign deposit must be paid by cash, debit or cheque payable to the Town of Lincoln, and is as follows:

- a) \$250.00 for Mayor and Regional Councillor; and
- b) \$150.00 for Ward Councillor; and
- c) \$100 for Registered Third Parties/School Board Trustees.

9.2. Election Sign deposits will be refunded within ninety (90) days after Voting Day, minus any deductions for the removal of any Election Signs by the Town.

9.3. Subject to subsection to 2.3, 2.4 and 7.1, where an Election Sign has been placed in contravention of any provision of this By-law, the Candidate will be notified and asked to remove. Should the Election Sign not be removed within the timeframe, the Municipal Enforcement Officer may remove the Election Sign without further notice at a cost of \$25.00 fine/per Election Sign, which will be deducted from the acquired Election Sign deposit.

9.4. If contraventions exceed the acquired Election Sign deposit, the Town will issue an invoice to the Candidate and Registered Third Party, within ninety (90) days of Voting Day.

10. Force and Effect

10.1. Upon enactment of this By-law, regulations related to Election Signs outlined in By-law 02-24, as amended, be and is hereby repealed.

10.2. This By-law shall come into force and take effect on the day of the final passing.

PASSED AND ENACTED on the 20th day of APRIL, 2022.

Originally signed by:

MAYOR: SANDRA EASTON

Originally signed by:

CLERK: JULIE KIRKELOS