

## THE CORPORATION OF THE TOWNSHIP OF WAINFLEET

### BYLAW NO. 039-2021

Being a bylaw to regulate the erection of signs for Federal, Provincial, Regional and Municipal Elections.

**WHEREAS** subsection 5(3) of the Municipal Act, 2001, S.O. 2001, 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. 2001, c. 25, as amended, provides that the powers of a municipality under this Act 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** subsection 8(3) of the Municipal Act, 2001, S.O. 2001, c. 25, as amended, provides that a by-law may regulate or prohibit respecting the matter, require persons to do things respecting the matter, and provide for a system of licences respecting the matter; and

**WHEREAS** subsection 11(1) of the Municipal Act, 2001, S.O. 2001, c. 25, as amended, provides that a municipality may provide any service or thing that the municipality considers necessary or desirable for the public; and

**WHEREAS** subsection 11(2) of the Municipal Act, 2001, S.O. 2001, c. 25, as amended, provides that a municipality may pass by-laws respecting: 5. Economic, social and environmental well-being of the municipality; 6. Health, safety and well-being of persons; 7. Services and things that the municipality is authorized to provide under subsection (1); 8. Protection of persons and property, including consumer protection; and

**WHEREAS** subsection 11(3) of the Municipal Act, 2001, S.O. 2001, c. 25, as amended, provides that a municipality may pass by-laws respecting: 7. Structures, including fences and signs; and

**WHEREAS** section 63 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 of any object placed or standing on or near a highway; and

**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 Corporation of the Township of Wainfleet 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 manner as property taxes; and

**NOW THEREFORE** the Municipal Council of the Corporation of the Township of Wainfleet enacts as follows:

1. **DEFINITIONS**

1.1 In this By-law:

"Billboard" means an outdoor sign erected and maintained by a person, firm, corporation, or business engaged in the sale or rental of the space on the sign to a clientele, upon which space is displayed copy that advertises goods, products, or services not necessarily sold or offered on the property where the sign is located.

"Boulevard" means that portion of every Road which is not used as a Sidewalk, driveway access, Roadway or roadside drainage ditch.

"Campaign Office" means a building or structure, or part of a building or structure, used by a Candidate to conduct an election campaign and for greater certainty shall include the entire property on which the Campaign Office is located.

"Candidate" means:

- (a) a candidate within the meaning of the Canada Elections Act, the Election Act (Ontario) or the Municipal Elections Act, 1996 as amended; and
- (b) shall be deemed to include a person seeking to influence other persons to vote for or against any candidate, question or by-law to the electors under section 8 of the Municipal Elections Act, 1996 as amended.

"Cemetery" means a cemetery owned, operated or maintained by the Township.

"Clerk" means the Clerk or Deputy Clerk of the Township or a person delegated by them for the purpose of this By-law.

"Crosswalk" means:

- (a) that part of a Road at an intersection that is included within the connections of the lateral lines of the Sidewalks on opposite sides of the Road measured from the curbs, or in the absence of curbs from the edges of the Roadway; or
- (b) any portion of a Roadway at an intersection or elsewhere distinctly indicated for pedestrian crossing by signs, school crossing signs (as per the Ontario Traffic Manual – Book 5 Regulatory Signs) or by lines or other markings on the surface thereof.

"Election Sign" means any sign or advertising device promoting, opposing or taking 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 Municipal Elections Act, 1996;
- (b) an issue associated with a person or political party in an election or by-election under the Canada Elections Act, the Election Act (Ontario) or the Municipal Elections Act, 1996; or
- (c) 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.

“Electoral District” means a geographic area represented by a Member of Municipal Council, Member of a School Board, Member of Provincial Parliament in the Legislative Assembly of Ontario or Member of Federal Parliament in the House of Commons or where a question, law or by-law is being submitted to the electors.

“Enforcement Officer” means a Municipal Law Enforcement Officer appointed by the Municipal Council of the Township.

“Nomination Day” means the deadline to file a nomination with the Clerk under the Municipal Elections Act, 1996 as amended.

“Owner” means:

- (a) the registered owner of the property on which an Election Sign is Placed,
- (b) any person described on or whose name, image, address or telephone number appears on an Election Sign,
- (c) any person who is in control of an Election Sign;
- (d) any person who benefits from the message on an Election Sign; or
- (e) any person who has Placed or permitted to be Placed an Election Sign;

and for the purposes of this By-law, there may be more than one Owner of an Election Sign.

“Park” means any land, including land covered by water, under the ownership, jurisdiction, control or management or joint management of the Township that is or hereafter may be established, dedicated, set apart, or made available for use as public open space including a natural area or an environmentally significant area, including any buildings, structures, facilities, erections and improvements located in or on such land.

“Place” means affix, attach, build, construct, display, erect, install, move, put or reconstruct; and “Placed” and “Placing” shall have a corresponding meaning.

“Public Property” means real property owned by or under the jurisdiction or control of the Township or any of its agencies, local boards, commissions or corporations but, for the purposes of this by-law, does not include a Road.

“Road” means a highway, road allowance, street, avenue, parkway, driveway, lane, square, place, bridge, viaduct, trestle or other public way under the ownership, jurisdiction or control of the Township.

“Roadway” means the part of a Road that is designed, improved, maintained or ordinarily used for vehicular traffic and includes a shoulder, a traffic median and a traffic island.

“Sidewalk” means any municipal walkway, or any portion of a Road between the Roadway and the adjacent property line that is improved, maintained and primarily intended for the use of pedestrians.

“Sign Area” means the area of one side of a sign or advertising device where copy can be placed.

“Sign Height” means the vertical height of a sign or advertising device from the lowest point of finished grade to the highest part of the sign or advertising device.

“Township” means the Corporation of the Township of Wainfleet.

“Voting Place” means a place where electors cast their ballots and includes the entire property at which the Voting Place is located.

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

## 2. GENERAL PROHIBITIONS

- 2.1 No person shall Place or permit to be Placed an Election Sign except in accordance with this by-law.
- 2.2 In addition to compliance with this By-law, every person shall also comply with the by-laws, laws and regulations of the Regional Municipality of Niagara, the Province of Ontario (including the Ministry of Transportation) and the Government of Canada.
- 2.3 No person shall Place or permit to be Placed an Election Sign that:
  - (a) has a Sign Area of more than 4.5 square metres;
  - (b) is illuminated;
  - (c) has flashing lights or rotating parts;
  - (d) simulates any traffic control device;
  - (e) interferes with the safe operation of vehicular traffic or the safety of pedestrians;
  - or
  - (f) impedes or obstructs the maintenance operations of the Township.
- 2.4 Subsections 2.3 (a) and (b) do not apply to an Election Sign on a Campaign Office or a Billboard.
- 2.5 No person shall Place or permit to be Placed an Election Sign that has a Sign Height:
  - (a) of more than 1.5 metres when Placed within 8 metres of a Roadway;
  - (b) of more than 4 metres when Placed beyond 8 metres of a Roadway.
- 2.6 No person shall Place or permit to be Placed an Election Sign outside of the Electoral District where the Candidate is running for office; or in the case of an Election Sign relating to a question, law or by-law that is being submitted to the electors, the Electoral District where the question, law or by-law is being submitted to the electors.

- 2.7 No person shall Place or permit to be Placed an Election Sign:
- (a) on private property without the consent of the owner of the private property;
  - (b) within 8 metres of another Election Sign of the same Candidate on the same property;
  - (c) in a Voting Place or on any property located within 60 metres of a Voting Place.
- 2.8 No person shall display on any Election Sign a logo, trademark or official mark, in whole or in part, owned or licensed by the Township.

### 3. **ELECTION SIGNS ON PUBLIC PROPERTY**

- 3.1 No person shall Place or permit to be Placed an Election Sign on Public Property.
- 3.2 No person shall Place or permit to be Placed an Election Sign in a Cemetery or in a Park.
- 3.3 No person shall Place or permit to be Placed an Election Sign:
- (a) in a Roadway;
  - (b) between a Roadway and a roadside drainage ditch,
  - (c) between a Roadway and a Sidewalk;
  - (d) less than 3 metres from a Crosswalk;
  - (e) in a Boulevard that abuts Public Property, a Cemetery or Park;
  - (f) in a Boulevard that abuts private property without the prior consent of the owner of the abutting private property;
  - (g) in a Boulevard within 8 metres of another Election Sign of the same Candidate;
  - (h) on a fence, gate, sign, tree, post, pole, utility pole, wall or other structure or thing located on any Public Property or Road;
  - (i) that impedes visibility at or near any Roadway intersection;
  - (j) that creates a visual distraction or obscures road safety signage used to warn or direct motorists;
  - (k) that hinders, impedes or obstructs the passage of vehicles or pedestrians.
- 3.4 No person shall injure or foul a Road or permit the injuring or fouling of a Road when Placing an Election Sign.

### 4. **TIMING**

- 4.1 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.
- 4.2 No person shall Place or permit to be Placed an Election Sign for a municipal election or by-election, except an Election Sign which is Placed on a Campaign Office:
- (a) earlier than the close of nominations on Nomination Day in the year of a regular election; or
  - (b) earlier than the close of nominations on Nomination Day for a by-election.
- 4.3 Despite sections 4.1 and 4.2, a person may Place or permit to be Placed Election Signs on their Campaign Office in the Township once the Candidate has formally filed their

nomination papers. For the purpose of this section, a Candidate may designate only one building or part thereof in the municipality as their office at any one time and must advise the Clerk, in writing, of the address of their office prior to erecting the Election Signs authorized by this section.

- 4.4 No Owner shall permit an Election Sign to remain Placed after the expiry of forty-eight (48) hours immediately following 11:59 p.m. of the day of the election or by-election, as the case may be.

**5. REMOVAL AND RETURN OF ELECTION SIGNS – POWERS OF THE CLERK AND/OR ENFORCEMENT OFFICER**

- 5.1 The Clerk or an Enforcement Officer may remove or cause to be removed any Election Sign Placed in contravention of this By-law without notice.

- 5.2 The cost of the removal of an Elections Sign under section 5.1 shall be charged back to an Owner of the Election Sign at a rate of \$50.00 per sign.

- 5.3 The Clerk or an Enforcement Officer may destroy or dispose of, or cause to be destroyed or disposed of, any Election Sign which has been removed and not claimed and retrieved by the Owner of the Election Sign within ten (10) business days after it has been removed by the Township.

**6. ADMINISTRATION**

- 6.1 The administration of this by-law is delegated to the Clerk.

**7. ENFORCEMENT**

- 7.1 This by-law may be enforced by the Clerk or an Enforcement Officer.

**8. OFFENCE AND PENALTY**

- 8.1 Every person who contravenes any provision of 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, as amended.

**9. SHORT TITLE OF BY-LAW**

- 9.1 This by-law may be referred to as the "Election Sign By-law".

**10. FORCE AND EFFECT**

- 10.1 By-law No. 001-2010 being a by-law to regulate the erection of signs for Federal, Provincial, Regional and Municipal Elections and all amendments to such by-law are hereby repealed.

- 10.2 This by-law shall come into force and effect on the day it is passed.

BY-LAW READ AND PASSED THIS 26<sup>TH</sup> DAY OF OCTOBER, 2021

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K. Gibson, MAYOR

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M. Ciuffetelli, DEPUTY CLERK

