

The Corporation of the City of Thorold

By-law No. 43-2018

Being a By-law to Regulate the Placement of Federal, Provincial and Municipal Election Signs

Whereas pursuant to Section 5(3) of the Municipal Act, 2001, S.O. 2001, c. 25, provides that a municipal power shall be exercised by by-law; and

Whereas pursuant to Section 8(1) of the Municipal Act, 2001, S.O. 2001, c. 25, 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 pursuant to Section 63 of the Municipal Act, 2001, S.O. 2001, c. 25, 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 pursuant to Section 425 of the Municipal Act, 2001, S.O. 2001, c. 25 establishes that any person who contravenes any by-law of The Corporation of the City of Thorold is guilty of an offence; and

Whereas pursuant to Section 445 of the Municipal Act, 2001, S.O. 2001, c. 25, provides that a municipality may make an order requiring a person who has contravened a by-law or who has 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 pursuant to Section 446 of the Municipal Act, S.O. 2001, c. 25, 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

Whereas Council for The Corporation of the City of Thorold is of the opinion that the delegation of legislative powers under this by-law to the Municipal Clerk, including without limitation the power to prescribe procedures for the retrieval and/or destruction of election signs removed under this by-law are powers of a minor nature having regard to the number of people and the time period affected by the exercise of the power of accordance.

Now therefore, the Council of The Corporation of the City of Thorold enacts as follows:

1. **DEFINITIONS**

"Act" shall mean the Municipal Act, 2001, S.O. 2001, c. 25

"Boulevard" shall mean the portion of highway between a street line and the edge of the curb, or where there is no curb, that portion of the highway which is travelled or designated to be travelled by vehicles but does not include medians, bulges or traffic islands;

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

"Candidate" shall mean:

- i) A candidate within the meaning of the Canada Elections 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;

“Election Sign” shall mean any sign, including posters, promoting, opposing or taking 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;
- 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” shall mean 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 roundabout;

“Municipal Clerk” shall mean the Municipal Clerk of The Corporation of the City of Thorold or a person designated by the Municipal Clerk for the purpose of this by-law;

“Municipal Law Enforcement Officer” shall mean a Municipal Law Enforcement Officer appointed by the Municipal Council of The Corporation of the City of Thorold;

“Owner” shall mean the registered owner of the property on which an election sign is placed; any person described on or whose name, image, address or telephone numbers appears on the election sign; any person who is in control of the election sign; any person who benefits from the message on the election sign; or 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” shall mean land and municipal owned lots and all portions thereof owned by or made available by lease, agreement, or otherwise to the municipality, that is or hereafter may be established, dedicated, set apart or made available for use as public open space, and that has been or hereafter may be placed under the Director of Public Works and Community Services including any and all buildings, structures, facilities, etc. in or on such land;

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

“Public Property” shall mean real property owned by or under the control of The Corporation of the City of Thorold;

“Registered Third Party” shall mean an individual, corporation or trade union that is registered under section 88.6 of the Municipal Elections Act, 1996;

“Roadway” shall mean the part of a highway that is improved, designed or ordinarily used for vehicular traffic;

“Sidewalk” shall mean any municipal walkway, or that portion of the street between the curb line or the lateral line of a roadway and the adjacent property line, primarily intended for the use of pedestrians;

“Sight Triangle” shall mean the triangular space formed by the street lines of a corner and a line drawn from a point in one street line to a point in the other street line, each such point being 12 m (40 ft) from the point of intersection of the street lines (measured along the street lines). Where the two street lines do not intersect at a point, the point of intersection of the street lines shall be determined to be the intersection of the projection of the streets lines or the intersection of the tangents to the street lines. Sight triangles shall apply to all lot lines intersecting and will be applied to both rear and front sight triangles when dealing with a property bounded by three street lines;

“Sign Height” shall mean the vertical height of a sign from the lowest point of finished grade to the highest part of the sign;

“Street” or “Highway” shall mean a common and public highway, street, avenue, parkway, driveway access, square, place, bridge, viaduct or trestle designed and intended for or used by the general public for the passage of vehicles and includes the area between the lateral property lines thereof;

“Third Party Advertisement” shall mean an advertisement in any broadcast, print, electronic or other medium that has the purpose of promoting, supporting or opposing,

- i) a candidate; or
- ii) a “yes” or “no” answer to a question referred to in subsection 8(1), (2) or (3) of the Municipal Elections Act, 1996;

“Voting Place” shall mean a place where electors cast their ballots as approved by the Federal, Provincial, or Municipal Election Official(s) and;

- i) when a voting place is located on public property, includes any street abutting; or
- ii) when a voting place is located on private property, includes any street abutting.

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 No person shall place or permit an Election Sign that:

- a) is illuminated;
- b) has a sign more than 1.5 m² (16 sq. ft.)
- c) interferes with the safe operation of vehicular traffic or the safety of pedestrians;
- d) impedes or obstructs the City of Thorold maintenance operations.

2.3 No person shall place or permit to be placed an Election Sign on or in a Voting Place.

2.4 No person shall pull down or remove a lawfully erected election sign on private property without the consent of the candidate or third party advertiser to who the sign relates or the owner of the property on which the sign is erected.

2.5 No person shall deface or willfully cause damage to a lawfully erected election sign.

2.6 No person shall display on any Election Sign, a logo, trademark, official mark, or crest, in whole or in part, owned by the City of Thorold.

- 2.7 All registered third party advertisement signs shall include:
- a) name of registered third party;
 - b) the municipality where the registered third party is registered; and
 - c) telephone number, mailing address or email address at which the registered third party may be contacted regarding the advertisement.

3. **TIME RESTRICTIONS**

- 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:
- a) earlier than 35 days before an election in the year of a Regular Election; or
 - b) earlier than 35 days before 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 Municipal Clerk.
- 3.4 An owner shall remove their Election Sign within forty-eight (48) hours immediately following the day of the election.

4.0 **ELECTION SIGNS ON PUBLIC PROPERTY**

- 4.1 No person shall place or permit to be placed an Election Sign on Public Property.
- 4.2 No person shall place or permit to be placed an Election Sign:
- a) on a roadway;
 - b) that impedes or obstructs the passage of pedestrian on a sidewalk;
 - c) between a roadway and a sidewalk;
 - d) in a median strip;
 - e) in a sight triangle;
 - f) less than 3 metres of a crosswalk;
 - g) on a tree, or a fence or a gate located on public property;
 - h) on or within a vehicle parked within 50 metres of a voting place;
 - i) on a utility pole.
- 4.3 Election signs may be displayed on a Regional Road in compliance with the Region of Niagara Sign By-law.
- 4.4 Provincial and/or federal election signs may only be displayed within the candidate's riding boundary. Where a road serves as a boundary candidates may only display election signs on private property on the side of the road within their riding boundary. On municipal boundary roads, signs may only be placed on private property on the side of the road within the Municipality.
- 4.5 Where a Regional Road serves as the boundary between ridings, the provisions of the Region of Niagara Sign B-law shall prevail.

5.0 **ELECTION SIGNS ON PRIVATE PROPERTY**

- 5.1 Election signs may be erected or displayed on private property if:
- a) the signs are no larger than 1.5 m² (16 sq. ft.), save and except signs on campaign offices, billboards and signs displayed indoors.
- 5.2 No more than two (2) election signs per candidate and/or third party advertiser are permitted on any one piece of land zoned residential.
- 5.3 No more than three (3) election signs per candidate and/or third party advertiser are permitted on any one piece of land zoned other than residential.
- 5.4 An election sign may be displayed or illuminated billboard or mobile sign provided that each billboard structure or mobile sign has been installed under the authority of a permit issued under the applicable City of Thorold By-law.
- 5.5 The use of any otherwise approved sign structure is governed by the City of Thorold's Sign By-law.

6. **REMOVAL AND RETURN OF ELECTION SIGNS**

- 6.1 The Municipal Clerk and/or a Municipal Enforcement Officer may remove any Election Sign erected in contravention of this by-law without notice.
- 6.2 The Municipal Clerk and/or Municipal Enforcement Officer may destroy any Election Signs which have been removed and not claimed or retrieved by the Candidate, persons, or Owners within the time period as prescribed by the Municipal Clerk.
- 6.3 Any election signs which have been removed by the Municipality shall be stored at a Municipal storage site for a period of not less than 30 days during which time the owner may redeem the said sign upon payment of all outstanding fees. Access to the Municipal storage site will be granted by booking an appointment time with the Municipal Clerk.
- 6.4 Election signs that have been held for more than 60 days after the election may be destroyed and the Municipality shall not be liable to compensate the candidate for the loss.
- 6.5 Any outstanding removal costs which remain unpaid more than 60 days after the election, and exceed the deposit amount, shall be billed directly to the candidate.

7. **LIABILITY**

- 7.1 The provisions of this By-law shall not be construed as relieving or limiting the responsibility or liability of any person erecting or owning any sign for personal injury or property damage resulting from the placing of such signs or resulting from the negligence or willful acts of such person, or his or her agents or employees, in the construction, erection, maintenance, repair or removal of any such signs. Likewise, the provisions of this section shall not be construed as imposing on The Corporation of the City of Thorold, its officers, employees, servants, agents and contractors any responsibility or liability (whatsoever) by reason of the removal of any sign.

8. **ENFORCEMENT**

- 8.1 This By-law may be enforced by the Municipal Clerk and the Municipal Law Enforcement Officer.

9. DEPOSIT REQUIRED

- 9.1 In the case of a Federal, Provincial or municipal election, the registered candidate or registered third party shall submit a deposit 35 days in advance of voting day in the amount of \$250 to the Municipality to cover the cost of removal of illegally placed election signs before any election signs for the registered candidate or registered third party are erected.
- 9.2 Any Federal or Provincial election sign displayed prior to the candidate's registration with the Returning Officer and payment of the fee as set out in section 9.1 above, shall be subject to removal and the candidate shall be subject to the removal fees as outlined in Schedule A.
- 9.3 Sixty days after voting day, the deposit cheque, less any amount deducted to cover the removal of illegally placed signs or signs not removed in accordance with the requirements of the By-law, shall be returned to the candidate. The deposit cheque will only be cashed once a contravention to the by-law has occurred.
- 9.4 Any election sign displayed in violation of this By-law shall be removed by the Municipality and the candidate billed for such costs at a rate of \$10.00 per sign for the first 25 signs only, regardless of the size of the sign.
- 9.5 Any sign removals in excess of the first 25 shall be billed to the candidate in accordance with the fees as set out in Schedule A.

10. PENALTY

- 10.1 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.

11. FORCE AND EFFECT

- 11.1 That By-law No. 155-2012 be hereby repealed.
- 11.2 That this By-law shall come into force and effect upon the date of passing.

Read a first, second and third time and finally passed by Council this 17th day of April, 2018.

A. T. (Ted) Luciani, Mayor

Donna Delvecchio, City Clerk

SCHEDULE "A"
Removal Fees

During the election

Any election sign up to a maximum of 25 signs \$10.00 per sign

Over 25 signs during an election and post-election removal

Any election sign regardless of size \$20.00 per sign