

The Corporation of the Town of Tecumseh

By-Law Number 2018 - 32

A By-law of The Corporation of the Town of Tecumseh being a by-law to regulate Election Signs

Whereas Section 8 of the *Municipal Act, 2001*, S.O. 2001, c. 25, provides that the Act shall be interpreted broadly so as to confer broad authority on municipalities to a) enable municipalities to govern their affairs as they consider appropriate and, b) enhance their ability to respond to municipal issues;

And Whereas Section 9 of the *Municipal Act, 2001*, provides that a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under the Act;

And Whereas Section 10 of the *Municipal Act, 2001*, provides that a single tier municipality may pass by-laws within the spheres of jurisdiction set out therein, inter alia structures, including fences and signs;

And Whereas Section 63 of the *Municipal Act, 2001*, S.O. 2001, 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 Whereas Section 99 of the *Municipal Act, 2001*, provides the 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 municipality or of a police services board, as the case may be, passed under the Act, is guilty of an offence;

And Whereas Section 445 of the *Municipal Act, 2001*, as amended, provides that a municipality may make a rider 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*, 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;

Now Therefore the Council of The Corporation of The Town of Tecumseh Enacts as follows:

1. Definitions

In this By-law, the following terms shall have the meanings indicated:

- A) **Boulevard:** means the portion of every highway between the roadway and the abutting property line.
- B) **Campaign Advertisement:** means an advertisement in any broadcast, print, electronic form or other medium purchased by or under the direction of a candidate or third party;

- C) **Campaign Office:** means a building or portion of a building which is used by a candidate or an agent of a candidate as part of an election campaign and where a candidate's campaign staff are normally present and the public may enter to obtain information about the candidate;
- D) **Candidate:** means a person who is running or has expressed an intention to run in a municipal, provincial or federal election and shall be deemed to include a person seeking to influence other persons to vote for or against any candidate or any question or by-law submitted to the electors under section 8 of the *Municipal Elections Act, 1996*;
- E) **Election Sign:** means any sign:
- (1) advertising or promoting a candidate in a federal, provincial or municipal election, including an election of a local board or commission; or
 - (2) intended to influence persons to vote for or against any candidate or any question or by-law submitted to the electors under section 8 of the *Municipal Elections Act, 1996*;
- F) **Highway:** means a common and public walkway, lane, street, avenue, parkway, driveway, square, place, bridge, viaduct or trestle, designed and intended for, or used by, the general public for the passage of vehicles and pedestrians and includes the untraveled portion of a road allowance;
- G) **Officer:** means a Municipal Law Enforcement Officer or other law enforcement officer as appointed by the Council of The Corporation of the Town of Tecumseh or designate, the Ontario Provincial Police, or a Provincial Offences Officer or other duly appointed individual;
- H) **Place:** means attach, install, erect, build, construct, reconstruct, move, display, or affix;
- I) **Premises:** includes the parking lot, adjoining fences and road allowances;
- J) **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, including the Town, Bell Canada, Union Gas, Ontario Hydro, Hydro One, Essex Power and any subsidiaries thereof;
- K) **Registered Third Party:** means any person or entity, including but not limited to a corporation or trade union whom is not a registered candidate, political party or constituency association who incurs expenses with respect to:
- (1) a question, law or by-law submitted to the electors;
 - (2) an issue associated with a person or political party participating in an election or;
 - (3) a candidate or political party participating in an election under the *Canada Elections Act*, the *Elections Act* or the *Municipal Elections Act*;
- L) **Roadway:** means the travelled portion of a highway;

- M) **Sidewalk or Trail:** means any municipal walkway, or that portion of a Highway between the roadway and the adjacent property line, primarily intended for the use of pedestrians;
- N) **Sign Height:** means the vertical distance measured from the highest point of the sign to grade and includes any support structure;
- O) **Town:** means The Corporation of the Town of Tecumseh;
- P) **Town Official Sign:** means a sign placed by the Town of Tecumseh to control and regulate the movement of vehicles and pedestrians, signs posted by the Town under the provisions of the sign by-law, includes a sign approved by the Ministry of Transportation Ontario, and signs described in the *Highway Traffic Act*;
- Q) **Town Property:** means property owned by or under the control of the Town of Tecumseh or any of its agencies, boards or commissions, including highways, boulevards and road allowances, and shall be deemed to include public utilities facilities, regardless of whether the poles are owned by or under the control of the Town and shall also be deemed to include, buses, bus shelters, benches, municipal garbage containers or other structures, located on a highway regardless of whether the shelters, containers or structures are owned by the Town. Property owned by the Town and leased to another person or entity shall not be deemed to be public property;
- R) **Trailer:** means a vehicle or device that is intended to at any time to 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;
- S) **Vehicle:** includes any means of transportation propelled or driven by any kind of power including muscular power;
- T) **Voting Place:** means a place where citizens cast their ballots and shall include the entire property and all the boundaries associated with it when such voting place is located within a public premises and shall mean all of the common elements when the voting place is located on private premises.

2. General Provisions

- A) No candidate, his agent, registered third party or any other person shall affix, erect or otherwise display an election sign except as permitted by this By-law.
- B) No candidate, his agent, registered third party or any other person shall affix, erect or otherwise display an election sign or permit an election sign to be affixed, erected or otherwise displayed:
- (1) on or overhanging Town property including, but not limited to, a Park or a facility that is owned or operated by the Town, a Highway, Roadway, Boulevard and Sidewalk or Trail;
 - (2) on a Public Utility Facility;
 - (3) which contains an electronic display that incorporates in any manner any flashing, moving illumination or animation which varies in intensity or which varies in colour and signs which have any visible moving parts or visible mechanical movement of any description;

- (4) on any Town official sign or Town official sign structure;
 - (5) in a location that would, by reason of size, location, or illumination, obstruct the vision and/or passage of drivers or pedestrians, or obstruct or detract from the visibility or effectiveness of any traffic sign or control device on public streets and roads or which are located in a sight triangle;
 - (6) which makes use of words such as “STOP”, “LOOK”, ONE WAY”, “DANGER”, “YIELD”, or any similar words, phrases, symbols, lights or characters in such manner as to tend to interfere with, mislead, or confuse traffic;
 - (7) on a tree, stone or other natural object or on a boundary fence or safety rail;
 - (8) at a Voting Place;
 - (9) on or within a Vehicle or Trailer parked within 50 metres of a Voting Place;
 - (10) in a location where the Election Sign:
 - (a) obstructs or impedes any required fire escape, fire exit, fire route, door, window etc., or so as to prevent or impede access of firefighters to any part of a building;
 - (b) constitutes a danger or hazard to the general public
- C) The candidate or registered third party to whom the election sign relates shall be responsible for the erection, maintenance or display of the election sign and shall ensure that all the requirements of this By-law have been met.
- D) No person shall pull down or remove a lawfully erected election sign on private property without the consent of the candidate to whom the sign relates or the owner of the property on which the sign is erected.
- E) No person shall deface or willfully cause damage to a lawfully erected election sign.
- F) No person shall place an election sign in such a position that such sign would contravene any other applicable legislation.
- G) No person shall display on any election sign a logo, trademark or official mark, in whole or in part, owned or licensed by the Town.

3. Election Signs on Private Property

- A) Election signs may be erected or displayed on private property if:
- (1) The signs are no larger than 1.22 metres by 1.22 metres and the sign height is no higher than two metres above ground level, save and except signs on campaign offices, billboards and signs displayed indoors;
 - (2) The signs do not interfere with the safe operation of vehicular traffic or with the safety of pedestrians; and
 - (3) The signs are erected with the consent of the owner or tenant of the property.

- B) No more than two (2) election signs per candidate are permitted on any one piece of land zoned residential.
- C) No more than three (3) election signs per candidate are permitted on any one piece of land zoned other than residential.
- D) The use of or erection of signs for other than the purposes provided for in this By-law shall be governed by the Town's Sign By-law.

4. Timing

- A) No candidate, his agent, registered third party or any other person shall affix, erect or otherwise display an election sign or permit or cause an election sign to be erected, affixed, or otherwise displayed prior to the issuance of writs for a provincial or federal election or thirty-seven (37) days immediately preceding the day of a municipal election or Nomination Day for a by-election.
- B) Notwithstanding section 4 A) election signs may be erected on campaign offices up to 90 days prior to voting day provided that:
 - (1) in the case of a candidate for the position of Councillor or Trustee, that right shall extend to no more than one campaign office in the ward where the candidate is running for election;
 - (2) in the case of a candidate for the position of Mayor, that right shall extend to no more than two (2) campaign offices.
- C) An election sign shall be removed within ninety-six (96) hours (4 days) immediately following 11:59 pm of the day of the election.

5. Removal of Unlawful Election Signs

- A) Where an election sign has been affixed, erected or otherwise displayed in contravention of any provision of this By-law, a Municipal Law Enforcement Officer or any other individual designated by the Clerk may cause the sign to be removed immediately without notice to the owner or apparent owner and/or take any further action as provided within this By-law.

6. Notice of Removal, Storage and Disposal

- A) Where the Town removes an election sign, a Notice shall be forwarded by personal service or regular post, in which case the Notice shall be deemed to have been received on the seventh day following the date the Notice was mailed. Such notice to the candidate or registered third party will indicate that the illegal sign has been removed by the Town and that said sign will be stored and disposed of by the Town in accordance to the provisions of Section 6 C). The Notice shall further indicate that the sign may be reclaimed by the candidate or registered third party within the time period prescribed and upon payment to the Town the cost of pulling down, removal and storage of the sign.
- B) Where the Town removes a sign and Notice has been provided as set out in Section 6 A), the candidate or registered third party shall submit payment of all fees associated with the removal, storage and disposal of each sign as set out on the Notice provided within 30 days of receipt. All costs and charges incurred by a municipality for the removal, care and storage of a sign that is erected or displayed in contravention of this by-law shall be considered a lien on the advertising device.

- C) Where a sign has been removed by the Town and stored for a period of thirty (30) days and the sign has not been redeemed, the sign may be forthwith destroyed or otherwise disposed of by the Town with no further notification to the owner of such sign.

7. Recovery of Costs for Removal, Storage and Disposal of Signs

- A) If an election sign is removed in accordance with Section 5 A), any person responsible for erecting or displaying or causing the erection or display of the sign in contravention of this article shall, in addition to any fine or other penalty which may be imposed for an offence under this article, be required to pay to the Town the cost of removing the sign. If an election sign is removed under Section 5 A), the candidate to whom the sign relates shall be responsible for payment of all fees established under the Fees By-law to cover the cost of removing the sign.
- B) Where a sign is so large or so placed that the cost of taking it down and removing it exceeds the amount provided in the Fees By-law, the amount stated in the Fees By-law shall not apply and the amount shall be the Town's actual cost for taking down, removing and disposing of the sign, plus an administrative fee of an additional fifteen (15%) percent.
- C) Any applicable fees as set out in the Fees By-law may be recovered by legal action or in a like manner as municipal taxes. Outstanding amounts applied will be applied to a candidate's tax roll, if applicable, based on the qualifying address provided on the candidate's nomination paper or registered third party's registration form.
- D) Signs that have been removed under Section 5 A) shall be stored by the Town for a minimum of 30 days, during which time the candidate or registered third party, the candidate's agent or registered third party may retrieve the sign by paying any amounts owing to the Town under the Fees By-law.
- E) Notwithstanding Section 7 D) the candidate or registered third party may provide the Town with a signed acknowledgement and release in a form acceptable to the Town requesting a review of the Notice received as to the illegal placement of the election sign.

8. Enforcement

- A) A Municipal Law Enforcement Officer, Provincial Offences Officer, Police Officer, or other duly appointed individual shall enforce the provisions of this by-law.
- B) No person shall obstruct, hinder, or otherwise interfere with a Municipal Law Enforcement Officer, Provincial Offences Officer, Police Officer or other duly appointed individual in the lawful carrying out of their duties and responsibilities under the provisions of this by-law.

9. Offence

- A) Every person who contravenes any provision of this By-law is guilty of an offence under the provisions of the *Provincial Offences Act*, R.S.O 1990, c P.33, as amended, and is liable on conviction to a penalty not exceeding \$5,000, exclusive of costs, subject to the provisions of the *Act*.

- B) Every person who contravenes any provision of this By-law, and every director or officer of a corporation, who knowingly concurs in the contravention of this By-law by the corporation, is guilty of an offence under the provisions of the *Municipal Act, 2001*, S.O. 2001, c. 25 as amended.
- C) Every person who contravenes the provisions of any section of this By-law, and every director or officer of a corporation who knowingly concurs in the contravention of this By-law by the corporation, is guilty of an offence under the provisions of the *Municipal Act, 2001*, S.O. 2001, c. 25 as amended and is liable on conviction to a penalty where the minimum fine shall not exceed \$500 and a maximum fine shall not exceed \$100,000 exclusive of costs under the provisions of the *Municipal Act, 2001*, S.O. 2001, c. 25 as amended.
- D) For the purpose of continuous offences, every person who contravenes any provision of this By-law, and every director or officer of a corporation who knowingly concurs in the contravention of this By-law by the corporation, is guilty of an offence and is liable on conviction to a penalty not exceeding \$10,000 per day or part thereof, exclusive of costs, under the provisions of the *Municipal Act, 2001*, S.O. 2001, c. 25 as amended.
- E) For the purpose of multiple offences, every person who contravenes any provision of this By-law, and every director or officer of a corporation who knowingly concurs in the contravention of this By-law by the corporation, is guilty of an offence and is liable on conviction to a penalty not exceeding \$10,000 per offence, exclusive of costs under the provisions of the *Municipal Act, 2001*, S.O. 2001, c. 25 as amended.
- F) Notwithstanding Section 9 E), and in accordance with the provisions of the *Municipal Act, 2001*, S.O. 2001, c. 25 as amended, the total of all fines for the continuous offences or multiple offences is not limited to \$100,000.

10. Liability

- A) 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 Town of Tecumseh, its officers, employees, servants, agents and contractors any responsibility or liability (whatsoever) by reason of the removal of any sign.

11. Conflicts

- A) In the event of a conflict between the provisions of this by-law and the provisions of another by-law of The Corporation of the Town of Tecumseh regulating signage, the provisions of the more restrictive enactment shall prevail.

12. Other Laws

- A) Nothing in this by-law relieves any person of the responsibility for adhering to other applicable laws which regulate signs or for obtaining the approval of the Federal and Provincial governments or agencies thereof as required, or for obtaining the approval of the property owner.

13. Validity

- A) In the event any provision, or part thereof, of this by-law is found by a court of competent jurisdiction, to be ultra vires, such provision, or part thereof, shall be deemed to be severed, and the remaining portion of such provision and all provisions of this by-law shall remain in full force and effect.

14. Title

- A) This by-law may be cited as the "**Election Sign By-law**".

15. Force and Effect

- A) **That** this By-law shall come into force and effect immediately upon final passing.

Read a first, second and third time and finally passed this 24th day of April, 2018.

Gary McNamara, Mayor

Laura Moy, Clerk