

Corporation of the Town of Newmarket

By-law 2022-16

A By-law to manage and regulate election signs in the Town of Newmarket.

Whereas subsection 11(3), paragraph 1 of the Municipal Act, 2001, S.O. 2001, c. 25, as amended authorizes The Corporation of the Town of Newmarket to pass by-laws respecting highways over which it has jurisdiction; and,

Whereas subsection 11(3), paragraph 7 of the Municipal Act, 2001, S.O. 2001, c. 25, as amended authorizes The Corporation of the Town of Newmarket to pass by-laws respecting signs; and,

Whereas subsection 63(1) of the Municipal Act, 2001, S.O. 2001, c. 25, as amended authorizes The Corporation of the Town of Newmarket, 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 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 Town of Newmarket is guilty of an offence; and,

Therefore be it enacted by the Council of the Corporation of the Town of Newmarket as follows:

1. Short Title

1.1. This By-law may be referred to as the “Election Sign By-law”.

2. Scope

2.2. Where any provision(s) in this by-law conflict with a provision from any other Town of Newmarket By-law, the provisions of this By-law take precedence with respect to **Elections Signs**.

2.3. Words that are defined in Section 3 below but appear within this By-law without bold and the first letter capitalized shall have their ordinary and plain meaning.

3. Definitions

In this By-law:

“**Billboard Sign**” means an outdoor **Sign** maintained by a person engaged in the sale or rental of space on the **Sign** to a client, upon which advertising of a business, activity, goods, products, services or facilities is not located or offered on the premises.

“**Boulevard**” means that part of a **Highway** from the edge of the **Roadway** to the nearest lateral property line of the **Highway**.

“**Campaign Office**” means a building or structure, or part of a building or structure, used by a **Candidate** or **Registered Third Party**.

“**Canada Elections Act**” means the federal statute cited as the Canada Elections Act, S.C. 2000, c.9, as amended.

“**Candidate**” means a person who has been nominated under the **Canada Elections Act**, the **Election Act**, or the **Municipal Elections Act**.

“**Council**” means the Council of the Corporation of the Town of Newmarket.

“**Election Act**” means the Ontario provincial statute cited as the Election Act, R.S.O. 1990, c.E.6, as amended.

“**Election Sign**” means any **Sign** promoting, opposing or taking a position with respect to:

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

Election Signs include **Signs Placed** by a **Registered Third Party**.

“**Election Sign Permit**” or “**Permit**” means a permit issued under this By-law for the purpose of placing **Election Signs**.

“**Fascia Sign**” means a **Sign** applied to or erected on and entirely supported by the wall of a building or structure.

“**Highway**” includes a common and public **Highway**, street, avenue, parkway, driveway, square, location and includes any bridge, trestle, viaduct or other structure forming part of the **Highway** and includes the **Boulevards** and any area between the lateral property lines of the **Highway**.

“**Intersection Pedestrian Signal**” means traffic control signals and/or a stop sign.

“**Mobile Sign**” means a non-illuminated **Sign** designed to be capable of being readily moved from one location to another is usually built on a trailer or other solid platform and may include wheels.

“**Municipal Elections Act**” means the Ontario provincial statute cited as the Municipal Elections Act, 1996, S.O. 1996, c.32, as amended.

“**Municipal Law Enforcement Officer**” means a person appointed by **Council** as a **Municipal Law Enforcement Officer** and shall also include an officer of the York Regional Police Service.

“**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.

“**Person**” for the purpose of this By-law means:

- (a) an individual, business, firm, body corporate, corporation, unincorporated business, partnership, association, **Trade Union**, or municipality; or
- (b) a **Candidate**, **Third Party**, or **Registered Third Party** who **Places** or permits the **Placing** of an **Election Sign** or any person described on the **Sign**, whose name, address or telephone number is on the **Sign** or who benefits from the message on the **Sign** and for the purposes of this By-law there may be more than one **Person** responsible for an **Election Sign**.

“**Place**” means to: attach, install, erect, build, construct, reconstruct, move, display or affix. “**Places**”, “**Placed**”, and “**Placing**” shall have the same meaning.

“**Private Property**” means real property that is not a **Highway** or **Public Property**.

“**Public Property**” means real property owned or under the control of the Town of Newmarket, Region of York, Provincial Government, Federal Government or any of their respective agencies, boards or commissions but, for the purposes of this By-law, does not include a **Highway** or where one or more persons reside on the **Public Property**.

“**Registered Third Party**” means one of the following and whose notice of registration has been certified with the **Clerk** pursuant to section 88.6 of the **Municipal Elections Act**:

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

“**Roadway**” means that part of a **Highway** that is improved, designed or ordinarily used for vehicular traffic including reserved lanes, shoulders and curbs and gutters.

“**School Crossing**” means any portion of a **Roadway** designated by by-law of the **Town**, indicated as a school zone by **Signs** on the **Highway** as prescribed by the Highway Traffic Act, R.S.O. 1990, c.H.8, and Ontario Regulations, as amended and as may be amended from time to time.

“**Sidewalk**” means that part of a **Highway** with a surface that is improved, designed or ordinarily used for the use of pedestrians or bicycles and includes a multi-use path.

“**Sight Triangle**” means in the case of a corner lot, the triangular space formed by the street lines and a line drawn from a point in one street line to a point in the other street line, measured 5 metres (16.4 feet) along the street from the point of intersection of the street lines. See Diagram 1 in Schedule A of this By-law.

“**Sign**” means any surface, structure and other component parts, which are used or capable of being used as a visual medium to attract attention to a specific subject matter or to create a design or convey a message and includes posters, billboards, advertising devices or notices.

“**Sign By-law**” means the Town of Newmarket Sign By-law 2017-73, as amended.

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

Third Party Advertisement” means an advertisement under the **Canada Elections Act**, the **Election Act**, or the **Municipal Elections Act** in any broadcast, print, electronic or other medium that has the purpose of promoting, supporting or opposing:

- (a) A certified **Candidate**;
- (b) A “yes” or “no” answer to a question on a ballot; or,
- (c) Third party advertisement does not include an advertisement by or under the direction of a **Candidate** or an advertisement described in subsection 8 (2) or (2.1) of the **Municipal Elections Act**.

“Town” means The Corporation of the Town of Newmarket.

“Town Clerk” means the Director of Legislative Services/Town Clerk/Returning Officer for the Town of Newmarket or his or her designate.

“Trade Union” means a trade union as defined in the federal Labour Relations Act, 1995 or the Canada Labour Code (Canada) and includes a central, regional or district labour council in Ontario.

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

“Voting Location” means a location designated in accordance with the **Municipal Elections Act**, **Election Act**, or **Canada Elections Act** where electors cast their ballots and:

- (a) When a **Voting Location** is located on **Public Property**, includes all of the area enclosed by the lot lines of the **Public Property** and any **Highway** abutting; and
- (b) When a **Voting Location** is located on **Private Property**, includes all of the common elements of the **Private Property** and any **Highway** immediately abutting.

“Voting Location” shall also include any location that has been established as a Voter Assistance Centre by the **Town Clerk**.

4. General Prohibitions

4.1. No **Person** shall erect, display, or cause or permit to be erected or displayed, any **Election Sign** throughout the Town of Newmarket unless:

- (a) an **Election Sign Permit** has been issued under this By-law;
- (b) **Notice to Register** or **Nomination Papers** are submitted to the **Town Clerk**; and
- (c) the **Election Sign** is **placed** in compliance with and conforms to all provisions of this by-law.

4.2. No **Person** shall promote any **Candidate** prior to that **Candidate** filing **Nomination Papers** with the **Town Clerk**.

4.3. No **Person** shall **Place** any **Election Sign** where the **Third Party** has not registered in accordance with the **Municipal Elections Act**, **Election Act**, or **Canada Elections Act**.

Election Signage Requirements

4.4. Every **Election Sign Placed** or displayed shall conform to the requirements of this by-law.

4.5. **Election Signs Placed** or permitted to be **Placed** by a **Registered Third Party** shall include the necessary information required in accordance with the **Canada Elections Act** or the **Election Act**.

4.6. In accordance with the **Municipal Elections Act**, every **Election Sign** must contain the following information:

- (a) The name of the **Registered Third Party**;
- (b) The municipality where the **Third Party** is registered; and
- (c) A telephone number, mailing address r email address to contact the registered party.

4.7. No **Person** shall **Place** an **Election Sign** that:

- (a) illuminates, has flashing lights, or rotating parts;
- (b) is in disrepair or not maintained in good repair;
- (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 that interferes with, misleads, or confuses the general public;
- (e) contains any logo, crest, trademark, or official mark, in whole or in part, that is owned or licensed by the **Town**;

4.8. **Mobile Signs** are not permitted to be used as **Election Signs**.

4.9. With the exception of a **Billboard Sign**, an **Election Sign** shall be limited to the following sizes:

- (a) maximum sign area of 1.49 square metres (16sq.ft);
- (b) maximum height of 1.22m (4ft); and
- (c) maximum width of 1.22m (4ft).

Location and Placement of Election Signs

4.10. No **Person** shall **Place** an **Election Sign** that:

- (a) is within any **Park**;
- (b) is on any vehicle that is parked or stopped on the premises used as a **Voting Location** on any **Voting Day**, including any advanced voting periods;
- (c) is on or within a **Voting Location** or the abutting municipal **Boulevard**;
- (d) interferes with the safe operation of vehicular traffic, including sight lines or visibility of traffic control devices;
- (e) interferes with the safety of pedestrians, including the visibility of traffic control devices or the passage of pedestrians where they are reasonably expected to travel;
- (f) impedes or obstructs the **Town’s** maintenance operations;

- (g) is on a **Roadway**;
- (h) is less than 10m (32.8ft) from a **Roadway** on a **Highway** where pedestrians are prohibited;
- (i) is on a median or island located within the **Roadway** or roundabout;
- (j) is within a **Sight Triangle**, as described in Schedule A of this By-law;
- (k) is less than 3m (9.8ft) from a school crossing;
- (l) is less than 30m (98.4ft) from an **Intersection Pedestrian Signal**;
- (m) is between the curb and **Sidewalk**, where a **Sidewalk** exists;
- (n) is located within 1.8m (6ft) from the face of the curb or edge of pavement of a **Roadway** where no **Sidewalk** exists;
- (o) is located within 0.6m (2ft) from the face of the curb or edge of the pavement of a **Roadway** where a **Sidewalk** exists;
- (p) is on a trailer;
- (q) is affixed to public utility, telephone, hydro, or lighting poles, or any other utility infrastructure;
- (r) is **Placed**, painted on, attached to, or supported by any tree, stone, or other natural object;
- (s) is **Placed** in a manner which inhibits parking on public or **Private Property**, or on a **Highway**;
- (t) is **Placed** on a boundary fence line or noise attenuation wall which is located on **Public Property**; or
- (u) is **Placed** where it is a general hazard to public safety.

4.11. Subsections 4.11(n) and 4.11(o) do not apply when the **Sidewalk** is less than 0.6m (2ft) 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.

Election Signs on Private Property

4.12. **Election Signs** are permitted on **Private Property**, provided that:

- (a) the property owner, tenant, or occupant of the property consents;
- (b) the number of **Election Signs Placed** or displayed does not exceed the number of abutting street lines for the property;
- (c) The **Election Sign** does not interfere with the safe operation of vehicular traffic or impair the safety of pedestrians;
- (d) The **Election Sign** does not obstruct or impede any fire escape, fire exit, door, window, scuttle, skylight, air intake, or exhaust; and
- (e) The **Election Sign** does not impede or prevent access of emergency water connections or fire hydrants.

4.13. No **Person** shall **Place** or display an **Election Sign**:

- (a) on the right-of-way adjacent to a private residence unless permission has been granted by someone in the household who is not a minor; or

- (b) within any portion of a farm or rural residential area that is not maintained for residential purposes.

Election Signs on Highways

4.14. No Person shall Place an Election Sign:

- (a) on a **Highway** structure, except on a **Highway** structure designated by the **Town** for posters; or
- (b) on any portion of the **Boulevard** that abuts **Public Property**;

4.15. When placing an Election Sign, no Person shall:

- (a) dig, drill or drive into asphalt, concrete, brick or any other hard improved surface of a **Highway**; or
- (b) drill or drive into a wooden, metal, concrete or other **Highway** structure.

Election Signs on Vehicles

4.16. No Person shall Place a Billboard Sign or an Election Sign on a vehicle that:

- (a) interferes with the safe operation of vehicular traffic or the safety of pedestrians, including the visibility of warning devices and traffic signals;
- (b) impedes or obstructs the **Town's** maintenance operations;
- (c) impedes or obstructs the passage of pedestrians where they are reasonably expected to walk;
- (d) is within a **Sight Triangle**;
- (e) simulates any traffic **Sign**, traffic signal, any other **Sign** that directs the movement of traffic, or any official **Sign**;
- (f) 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;
- (g) is in a state of disrepair or is located where it is a general hazard to public safety; or
- (h) is **Placed** so as to impede, hinder or prevent parking by vehicles on private or public lands, or on a **Highway**.

5. Application, Fees, and Permit Registration

5.1. The terms of an Election Sign Permit issued shall be valid from the date of issuance and expires 72hrs following Voting Day when Election Signs are required to be removed.

5.2. Every applicant for an Election Sign Permit issued under this By-law shall submit a completed application on the forms prescribed by the Town.

5.3. Permit fees shall be in accordance with those specified in the Town's Fees and Charges By-law.

5.4. In addition to a non-refundable Election Sign Permit fee, a \$250 deposit will be required to be paid in full by all applicants at the time of submitting an Election Sign Permit application. The Town's Treasurer or their

designate will deduct any and all unpaid **Election Sign** removal fees, as identified in this by-law, prior to releasing the deposit.

6. Installation and Removal of Election Signs

6.1. No **Election Sign** shall be **Placed**, erected, or installed:

(a) in a federal or provincial election or by-election:

(i) until the day after the writ of an election or by-election is issued;

(b) in a municipal election or by-election:

(i) until after the **Candidate** has filed his/her Nomination Papers with the **Town Clerk**;

(ii) no earlier than 10:00AM E.S.T. 28 calendar days (4 weeks) prior to a **Voting Day** in the year of a regular or by-election; or

(iii) 10:00AM E.S.T. on **Nomination Day** for a by-election if the **Nomination Day** is less than 28 calendar days (4 weeks) prior to **Voting Day**.

6.2. Despite Section 6.1, an **Election Sign** which is a **Fascia Sign** may be **Placed** to the face of the building or building unit which is used as a **Campaign Office** provided that:

(a) The sign complies with **Fascia Sign** requirements within the **Town's Sign By-law**;

(b) The **Candidate** has filed his or her Nomination Papers with the **Town Clerk** or the **Registered Third Party** has registered with the **Town Clerk** and paid all applicable nomination filing fees; and

(c) All application documents and permit fees have been submitted to the **Town**.

6.3. Every **Person**, **Candidate**, or **Registered Third Party** shall remove all **Election Signs** from any property within 72 hours immediately following **Voting Day**.

Removal of Election Signs by Town Staff

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

6.5. The **Town Clerk** and/or a **Municipal Law Enforcement Officer** may destroy any **Election Signs** which have been removed and not claimed and retrieved by the **Person** within the time period as prescribed by the **Town Clerk**. **Election Signs** removed in accordance with this By-law may be destroyed or otherwise disposed of by the **Town** without notice and/or compensation to any party.

6.6. Every **Election Sign** shall be **Placed** and displayed in accordance with this By-law and noncompliant **Election Signs** may be removed by the **Town** without notice.

6.7. Any **Person** acting on behalf of the **Candidate** or **Registered Third Party** may, at any time following **Voting Day**, retrieve the **Election Sign** at no additional cost.

6.8. The **Town Clerk** may make regulations under this By-law prescribing the 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** and/or a **Municipal Law Enforcement Officer** 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 **Person** relating to the retrieval and destruction of an **Election Sign**.

6.9. The **Town Clerk** may make regulations under this By-law prescribing the rules for collecting unpaid fines.

7. Offence, Penalty, and Presumption

7.1. Every **Person** who contravenes any provision of this By-law is guilty of an offence.

7.2. If an **Election Sign** has been **Placed** or displayed in contravention of any provision of this By-law, and the contravention has not been corrected, the contravention of the provision shall be deemed to be a continuing offence for each day or part of a day that the contravention remains uncorrected.

7.3. Every **Person** who is guilty of an offence under this By-law shall be subject to the following penalties:

(a) Every **Person** who contravenes any provision of this By-law are liable to the fines and administrative fees set out under the Administrative Monetary Penalty System By-law 2019-62.

(b) Every **Person** who is in contravention of the provisions of this By-law may request a review of the matter in accordance with the Administrative Monetary Penalty System By-law-2019- 62.

(c) Any **Person** who contravenes a provision of this By-law is guilty of an offence and upon conviction is liable to a fine as provided for by the Provincial Offences Act, R.S.O. 1990, Chapter P.33, as amended.

7.4. For the purposes of this By-law, “multiple offence” means an offence in respect of two or more acts or omissions each of which separately constitutes an offence and is a contravention of the same provision of this By-law.

7.5. For the purposes of this By-law, an offence is a second or subsequent offence if the act giving rise to the offence occurred after a conviction had been entered at an earlier date for the same offence.

7.6. Where a **Sign** or **Election Sign** is **Placed** or displayed in contravention of any provision of this bylaw, any **Person** named on the **Sign** or **Election Sign** shall be presumed to have been the **Person** who **Placed** or displayed the **Sign**, which presumption may be rebutted by evidence to the contrary on a balance of probabilities.

7.7. Where a **Sign** or **Election Sign** is **Placed** or displayed in contravention of any provision of this By-law, and the **Sign** or **Election Sign** has no **Person’s** name on it, but a telephone number appears on the **Sign** or **Election Sign**, any **Person** to whom the telephone number is listed in a telephone directory, including any internet directory, shall be presumed to have been the **Person** who **Placed** or displayed the **Sign**, which presumption may be rebutted by evidence to the contrary on a balance of probabilities.

7.8. Where a **Sign** or **Election Sign** is **Placed** or displayed by a **Third Party** or **Registered Third Party** in contravention of any provision of this By-

law, the corporation, trade union, or an individual of the **Third Party** or **Registered Third Party** shall be presumed to have knowingly concurred in the placement or displaying of the **Sign** in contravention of this By-law, which presumption may be rebutted by evidence to the contrary on a balance of probabilities.

- 7.9. Where an authorized officer or **Municipal Law Enforcement Officer** has reasonable grounds to believe that an offence has been committed by any **Person**, the authorized officer or **Municipal Law Enforcement Officer** may require the name, address and proof of identity of that **Person**, and the **Person** shall supply the required information.

8. Enforcement

- 8.1. This By-law may be enforced by the **Municipal Law Enforcement Officer** or by any other person appointed by the **Town** for the purpose of enforcing this By-law.
- 8.2. No **Person** shall hinder or obstruct, or attempt to hinder or obstruct, any **Municipal Enforcement Officer** exercising a power or performing a duty under this By-law.

9. Severance

- 9.1. If any sections, section or part of a section of this By-law are found by any Court to be illegal or beyond the power of **Council** to enact, such sections or section or part of a section shall be deemed to be severable and all other sections or parts of sections of this By-law shall be deemed to separate and independent and shall continue in full force and effect.

10. Indemnification

- 10.1. The **Candidate, Person, Registered Third Party** or **Third Party** shall indemnify and hold harmless the **Town** and/or the Region (and the respective officers, **Council** members, partners, agents and employees of the **Town** and/or the Region) from and against:
- (a) all actions, claims, demands, losses, costs, damages, suits or proceedings whatsoever which may be brought against or made upon the **Town** and the Region; and
 - (b) against all losses, damages, liabilities, judgements, claims, suits, demands or expenses which the **Town** and/or the Region may sustain, suffer or be put to, resulting from or arising out the issuance of the permit or the actions of the **Candidate, Person, Registered Third Party** or **Third Party**.

This indemnification shall include but is not limited to any legal costs incurred by the **Town** and/or the Region on a substantial indemnity basis, including those incurred to defend any criminal prosecutions against the **Town** and/or the Region resulting from the actions of the **Candidate, Person, Registered Third Party**, or **Third Party**.

11. Administration

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

12. Force and Effect

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

Enacted this 7th day of March, 2022.

John Taylor, Mayor

Lisa Lyons, Town Clerk

Diagram 1 - Sight Triangle

