

The Corporation of the Town of Essex

By-Law Number 2028

Being a by-law to regulate the use of
election signs within the geographical
boundaries of the Town of Essex

WHEREAS Subsection 11(3), paragraph 1, of the *Municipal Act, 2001, S.O. 2001, c. 25*, as amended, authorizes a municipality to pass by-laws respecting areas 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 a municipality to pass by-laws respecting signs;

AND WHEREAS Subsection 63(1) of the *Municipal Act, 2001, S.O. 2001, c. 25*, as amended, authorizes a municipality, if it passes a by-law for prohibiting and 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 Essex is guilty of an offence;

AND WHEREAS the Council of The Corporation of the Town of Essex recognizes the importance of free speech and political campaigning as supported by the *Municipal Elections Act, 1996, S.O. 1996, c. 32*, as amended;

AND WHEREAS the Council of The Corporation of the Town of Essex deems it necessary to enact regulations to:

- a) achieve clarity of the position and consistency of approach for placement of election signs and election campaign advertisements within the jurisdiction of The Corporation of the Town of Essex;
- b) enable consistent and equitable application to all candidates and third parties;
- c) minimize any threat to safety and/or nuisance to the public arising from the placement of election signs;

NOW THEREFORE be it resolved that the Council of The Corporation of the Town of Essex hereby enacts as follows:

1.0 DEFINITIONS

- 1.1 **"Billboard"** means a Sign upon which the space is sold or rented to a person who does not occupy the premises where the Sign is located.
- 1.2 **"Boulevard"** means the part of a Highway from the edge of the Roadway to the Sidewalk, or if no Sidewalk is present, that part of the Highway from the edge of the Roadway to the nearest lateral property line of the Highway.
- 1.3 **"Campaign Office"** means one (1) building or structure, or part of one building or structure, used by a Candidate.
- 1.4 **"Canada Elections Act"** means the *Canada Elections Act, S.C. 2000, c. 9*, as amended, or any successor legislation.
- 1.5 **"Candidate"** means a person who has been nominated under the Canada Elections Act, the Election Act, Ontario, or the Municipal Elections Act.

- 1.6 **“Clerk”** means the duly appointed Clerk of The Corporation of the Town of Essex or his or her designate.
- 1.7 **“Council”** means the Council of The Corporation of the Town of Essex.
- 1.8 **“Election Act”** means the *Election Act, R.S.O. 1990, c. E.6*, as amended, or any successor legislation.
- 1.9 **“Election Sign”** means any Sign promoting, supporting, 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.
- 1.10 **“Election Sign Permit”** means a permit issued under this By-Law in the form and manner of which shall be prescribed by the Clerk and payment of its associated deposit as set by this By-Law but which deposit may be amended from time to time by a duly passed resolution of Council.
- 1.11 **“Highway”** means a common and public highway, street, avenue, parkway, driveway, square, place 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.
- 1.12 **“Highway Traffic Act”** means the *Highway Traffic Act, R.S.O. 1990, c. H.8*, and Ontario Regulations thereunder, as amended, and any successor legislation.
- 1.13 **“Intersection Pedestrian Signal”** means traffic control signals and/or a stop Sign.
- 1.14 **“Municipal Act”** means the *Municipal Act, 2001, S.O. 2001, c. 25*, as amended, and any successor legislation.
- 1.15 **“Municipal Elections Act”** means the *Municipal Elections Act, 1996, S.O. 1996, c. 32*, as amended, and any successor legislation.
- 1.16 **“Officer”** means any person authorized by The Corporation of the Town of Essex to enforce by-laws, including but not limited to, By-Law Enforcement Officers and Police Officers having authority in the Town.
- 1.17 **“Owner”** means the person who Places or permits the placing of an Election Sign or any person described on the Election Sign, whose name, address or telephone number is on the Election Sign or the person (including a Candidate) who benefits from the message on the Election Sign and for the purposes of this By-Law there may be more than one Owner of an Election Sign.
- 1.18 **“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.
- 1.19 **“Place”** means attach, affix, install, erect, build, construct, reconstruct, move, and/or display.
- 1.20 **“Private Property”** means real property that is not a Highway or Public Property.

- 1.21 **“Public Property”** means real property owned or under the control of the Town of Essex, provincial government, or 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 real property where one or more persons reside.
- 1.22 **“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.
- 1.23 **“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.
- 1.24 **“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.
- 1.25 **“Sign”** means any sign, surface, or structure and any component or appurtenant parts, used or capable or 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 a banner, awning, canopy, marquee, menu board, poster, and Billboard.
- 1.26 **“Third Party”** means any person or entity, including but not limited to a corporation or trade union, who is not a registered Candidate, political party, or constituency association, who incurs expenses with respect to:
- a) a question, law or by-law submitted to the electors under the Canada Elections Act, the Election Act, the Municipal Elections Act, or any other legislation;
 - 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.
- 1.27 **“Town”** means The Corporation of the Town of Essex or the geographical area of the Town of Essex, as the context may suggest.
- 1.28 **“Voting Place”** means a place where electors cast their ballots and:
- a) when a Voting Place is located on Public Property, includes all area enclosed by the lot lines of the Public Property and any Highways immediately abutting; or
 - b) when a Voting Place is located on Private Property, includes all of the common elements of the Private Property and any Highways immediately abutting.
- 1.29 **“Zone”** means an area designated for a particular land use or uses as established by the Zoning By-Law as amended from time to time.
- 1.30 **“Zoning By-Law”** means the general land use by-law enacted by Council under Section 34 of the *Planning Act, R.S.O. 1990, c. P.13*, as amended from time to time.

2.0 GENERAL REQUIREMENTS

- 2.1 No person shall Place or permit to be Placed an Election Sign outdoors within the geographical limits of the Town of Essex except in accordance with this By-Law.
- 2.2 No person shall Place or permit to be Placed an Election Sign without an Election Sign permit approved and issued in respect of such Election Sign.

2.3 Every Owner shall ensure compliance with this By-Law.

3.0 ELECTION SIGN PERMIT AND REQUIREMENTS

3.1 No person shall Place or permit to be Placed an Election Sign for a municipal election or by-election prior to the issuance of an Election Sign Permit and the payment of the Election Sign Permit deposit in accordance with Schedule "A" of this By-Law, which is deemed to form part of this By-Law.

3.2 No person shall Place or permit to be Placed an Election Sign for a federal or provincial election or by-election (held after the year 2022) prior to the issuance of the Election Sign Permit and the payment of the Election Sign Permit deposit in accordance with Schedule "A" of this By-Law.

3.3 Any person (including a Candidate or Third Party Advertiser) seeking the issuance of an Election Sign Permit shall submit to the Clerk for review and approval, if applicable:

- a) a completed application form;
- b) the applicable deposit;
- c) a sketch or pictorial of the proposed sign(s) and dimensions; and
- d) an agreement to indemnify the Town for any costs incurred relating to Town enforcement to ensure compliance with the provisions of this By-law by that Owner/Candidate or Third Party as the case may be .
- e) Any further applicable information and material required by the Clerk.

3.4 The Clerk may issue an Election Sign Permit if all applicable requirements are satisfied. The issued Election Sign Permit may indicate such particulars as:

- a) the person to whom the Election Sign Permit is issued;
- b) its permitted size and its permitted location for each Election Sign to which the Election Sign Permit applies;
- c) the date of issuance of the Election Sign Permit; and
- d) the voting date in respect of which the Election Sign applies.

3.5 Upon any violations or failure to comply with the requirements of this By-Law, the Clerk reserves the complete discretion and right to cancel or revoke an Election Sign Permit.

3.6 Election Sign Permit deposits may be paid in the form of cash, debit card or certified cheque payable to the Town.

3.7 Election Sign Permit deposits are due and payable prior to any Election Signs being affixed, displayed, or otherwise erected within the Town.

3.8 The deposit will be refunded upon satisfactory adherence to the provisions of this By-Law throughout the campaign period.

3.9 Upon any violations or failure to comply with the requirements of this By-Law as determined at the sole discretion of the Clerk , the Clerk reserves the right to retain (in whole or in part) or refund (in whole or in part) the Election Sign Permit Deposit

3.10 The decision of the Clerk to retain (in whole or in part) or refund (in whole or in part) the Election Sign Permit deposit shall be final and not subject to review.

- 3.11 In the event that the deposit is not retained, the Clerk shall direct a refund of the Election Sign Permit deposit paid in accordance with this By-Law following the end of Voting Day.
- 3.12 Every Person who fails to obtain an Election Sign permit contravenes this By-Law, and is guilty of an offence and upon conviction is liable to a fine, and other such penalties, as provided for in the in *Provincial Offences Act, R.S.O. 1990, c. P.33*, as amended.

4.0 PHYSICAL CHARACTERISTICS OF ELECTION SIGNS

- 4.1 No person shall Place or permit to be Placed an Election Sign that:
- a) is larger than 1.22 metres (4 feet) in height and 1.22 metres (4 feet) in width;
 - b) is higher than 1.5 metres (5 feet) above the ground;
 - c) interferes with the safe operation of vehicular traffic or the safety of pedestrians;
 - d) is illuminated, motorized, or inflatable, contains flashing lights or rotating parts, or simulates any traffic control device;
 - e) obstructs the visibility of intersections, private entrances, pedestrians, vehicles, traffic control devices, or regulatory signage;
 - f) impedes the necessary sightlines of motorists, municipal snowplow operations, or access to a private drive;
 - g) is nailed or otherwise attached to or upon any utility pole, light pole, utility box, tree, planter, bench, waste receptacle, newspaper box or mail box;
 - h) is affixed to an airplane, a boat, dock or buoyed in the water such as an amphibious water sign or inflatable sign;
 - i) is in or on a vehicle that is parked or located on any municipal property if it is visible from the outside of the vehicle;
 - j) is located on a Sidewalk;
 - k) is affixed to a permanent or official Highway sign, signal, or support, guardrail or other Roadway structure; or
 - l) creates a safety hazard;
- 4.2 No person shall Place or permit to be Placed an Election Sign on any property that is owned, leased, or maintained by the Town of Essex, including, but not limited to:
- a) Municipal Offices;
 - b) Fire Halls;
 - c) Public Works Yards;
 - d) Community Centres;
 - e) Public Libraries;
 - f) Municipal Parks; or
 - g) Vacant parcels/lots of land owned by the Town of Essex.
- 4.3 No person shall Place or permit to be Placed an Election Sign on any building that is owned, leased, or operated by the Town of Essex.

- 4.4 No Election Sign shall be in a state of disrepair and every Owner shall ensure that the Owner's Election Signs remain in a state of repair.

5.0 CONTENTS OF ELECTION SIGNS

- 5.1 Every Election Sign shall identify who is responsible for the messaging.
- 5.2 Each sign Placed by a Third Party shall identify the name of the registered Third Party, the municipality where the Third Party is registered, and a telephone number, mailing address or email address at which the registered Third Party may be contacted.
- 5.3 Section 88.3(2) of the Municipal Elections Act sets out that an election campaign advertisement purchased by or under the direction of a Candidate shall identify the Candidate. An Election Sign that states the name of the Candidate in combination with the words "Elect (Candidate name), Re-elect (Candidate name), Vote (Candidate name) or (Candidate name) for the office of (i.e. Mayor, Deputy Mayor, Councillor as applicable)" shall be deemed to meet the requirements of the Municipal Elections Act but is subject to further approval by the Clerk upon issuance of the applicable Election Sign Permit.
- 5.4 The use of "Re-elect" on an Election Sign shall only be permitted by or for the Candidate who is the sitting or immediate Incumbent relating to the office for which the Candidate has been nominated.
- 5.5 No Election Sign and contents thereof shall present information that is deemed by the Clerk at his or her discretion to be misleading or likely to be misleading or otherwise confusing to the electorate.
- 5.6 No person shall display on any Election Sign, in whole or in part, a logo, brand, trademark, slogan or official mark of the Town, including the Town's municipal election logo.

6.0 TIMING OF PLACEMENT

- 6.1 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.
- 6.2 No person shall Place or permit to be Placed an Election Sign for a municipal election earlier than the day that the Candidate has been nominated or appointed and no earlier than:
- a) 45 days prior to voting day in the year of the regular election; or
 - b) nomination day for a by-election.

7.0 GENERAL LOCATIONS OF ELECTION SIGNS

- 7.1 Election Signs are permitted in any Zone.
- 7.2 Unless the Candidate has been nominated in a federal or provincial election or the Candidate has been nominated for the office of Mayor or Deputy Mayor in a municipal election, no person shall Place or permit to be Placed an Election Sign in any ward that they are not officially nominated or registered in.
- 7.3 No Election Sign shall be located where it will interfere with the safe movement or visibility of any vehicle or pedestrian traffic or where it is or causes a general hazard to public safety.
- 7.4 No Election Sign shall be located so as to obstruct or impede any fire escape, fire exit, door, window, scuttle skylight, flue, air intake or air exhaust, nor so as to

prevent or impede the free access of emergency personnel to any part of a building, including any emergency water connection or fire hydrant.

- 7.5 No Election Sign shall be affixed to a tree, pipe, telephone pole, hydro pole, light standard, or any other utility infrastructure.

8.0 ELECTION SIGNS ON PRIVATE PROPERTY

- 8.1 Each Candidate will only be permitted to Place one double-sided Election Sign on each Private Property. If the Private Property consists of multiple residential units, each Candidate will be permitted to Place one double-sided Election Sign for each residential unit provided the Election Signs are Placed a minimum of 1 metre apart.
- 8.2 Each Candidate will only be permitted one Election Sign for each 500 metres of frontage of commercial/industrial properties.
- 8.3 No Owner shall Place or permit to be Placed an Election Sign on Private Property without the consent of the property owner or an occupant.

9.0 ELECTION SIGNS ON HIGHWAYS

- 9.1 No person shall Place or permit to be Placed an Election Sign on a Highway so that the Election Sign:
- a) is on a Roadway;
 - b) impedes or obstructs the passage of pedestrians where they are reasonably expected to walk;
 - c) is within 1 metre of a curb or pavement edge;
 - d) is within 1 metre of a residential property line;
 - e) is within 3 metres of an industrial property line;
 - f) is on a median or island located within a Roadway;
 - g) is less than 3 metres from a School Crossing;
 - h) is less than 10 metres from an Intersection Pedestrian Signal;
 - i) if on a Highway within a residential Zone, is less than 10 metres from another Election Sign for the same Candidate or Third Party; or
 - j) if on a Highway within a commercial and/or industrial Zone, is less than 50 metres from another Election Sign for the same Candidate or Third Party.
- 9.2 No person shall Place or permit to be Placed an Election Sign on a Highway structure.
- 9.3 No person shall dig, drill, or drive into asphalt, concrete, brick, or any other hard improved surface on a Highway when placing an Election Sign.
- 9.4 No person shall drill or drive into a wooden, metal, concrete or other Highway structure when placing an Election Sign.

10.0 ELECTION SIGNS NEAR VOTING PLACES

- 10.1 On any day when electors are casting their ballots, no person shall Place or permit to be Placed any Election Sign on land within 100 metres of a Voting Place, unless such land is a residential Private Property.

11.0 ELECTION SIGNS ON PUBLIC PROPERTY

- 11.1 No person shall Place or permit to be Placed an Election Sign on Public Property.

- 11.2 No person shall Place or permit to be Placed an Election Sign on property owned by the Province of Ontario or the Government of Canada.
- 11.3 No person shall Place or permit to be Placed an Election Sign within a Park.

12.0 REMOVAL OF ELECTION SIGNS

- 12.1 Every Owner shall remove all of the Owner's Election Signs within 72 hours (3 days) immediately following 11:59 p.m. of the day of the election.
- 12.2 A person is entitled to receive a refund of the Election Sign Permit deposit if:
- a) the person removes their Election Signs within 72 hours (3 days) immediately following 11:59 p.m. of the day of the election; and
 - b) the person has no outstanding fines, offences, or violations as determined in accordance with this By-Law.
- 12.3 The Clerk or an Officer may enter upon any lands to remove or cause to be removed immediately, without notice, any Election Sign that does not comply with this By-Law.
- 12.4 The Clerk may recover the expense for the removal of an Election Sign from the Owner of such Sign and may commence proceedings against the Owner to recover such expense.
- 12.5 The Clerk or an Officer may, without notice or compensation, destroy or otherwise dispose of Election Signs removed in accordance with this By-Law.

13.0 CAMPAIGN OFFICE EXEMPTIONS

- 13.1 Despite the foregoing provisions regarding the timing of Placing Election Signs, Election Signs may be erected on a Candidate's Campaign Office and in a municipal election such a sign may be erected on a Candidate's Campaign Office once the Candidate has filed his or her nomination with the Clerk. All other provisions of this By-Law shall continue to apply with respect to the placing of such Election Signs.

14.0 ADMINISTRATION

- 14.1 The Clerk is responsible for the administration of this By-Law.
- 14.2 The Clerk has the delegated authority to review any issue regarding an Election Sign and decide if any action is needed to uphold the general integrity of this By-Law. The Clerk's decision thereof shall be final and binding and not subject to review.

15.0 OTHER APPROVAL AUTHORITIES

- 15.1 Election Signs that will be installed or affixed to or on the Ministry of Transportation road systems or the County of Essex road systems will require further permission of these respective approving authorities.
- 15.2 Election Signs that will be installed or affixed to poles belonging to other public utilities will further require the permission of these respective approving authorities.

16.0 ENFORCEMENT

- 16.1 This By-Law may be enforced by an Officer or the Clerk.

16.2 The investigation or prosecution for any acts of vandalism to Election Signs or campaign material of the Candidates should be referred to the Ontario Provincial Police by the complainant.

17.0 CONFLICT WITH OTHER BY-LAWS

17.1 If any provision of this By-Law conflicts with any provision of any other by-law of the Town, the provisions of this By-Law shall take precedence.

18.0 SEVERABILITY

18.1 If any of the provisions of this By-Law are deemed to be invalid or void, in whole or in part, by any court of competent jurisdiction, such provisions shall be deemed to be severable and all remaining terms and provisions shall be deemed to be separate and independent and shall continue in full force and effect.

19.0 OFFENCES

19.1 Every Person who contravenes any provision of this By-Law, including failing to comply with an order made under this By-Law, is guilty of an offence and upon conviction is liable to a fine, and other such penalties, as provided for in the in *Provincial Offences Act, R.S.O. 1990, c. P.33*, as amended.

19.2 In accordance with Section 398(2) of the *Municipal Act*, the treasurer of the Town may add unpaid fees, charges and fines under this By-Law to the tax roll and collect them in the same manner as property taxes.

20.0 REPEAL

20.1 Upon the final passage of this By-Law, the Election Signs Policy approved May 3, 2010, is hereby repealed.

20.2 Upon the final passage of this By-Law, those provisions of By-Law No. 1350 and its amendments thereto relating to election signs are hereby repealed.

21.0 SHORT TITLE

21.1 This By-Law may be referred to as the "Election Sign By-Law".

22.0 ENACTMENT

22.1 This By-Law shall come into full force and effect upon the final passing thereof.

Read a first, a second and a third time and finally passed on May 16, 2022.

Mayor

Clerk

Schedule "A"
Election Sign Permit Deposit

Type of Candidate	Deposit Amount
Federal Election Candidate	\$200.00
Provincial Election Candidate	\$200.00
Municipal Election – Candidate for Mayor	\$200.00
Municipal Election – Candidate for Deputy Mayor	\$200.00
Municipal Election – Candidate for Councillor	\$100.00