

THE CORPORATION OF THE
TOWN OF PELHAM
BY-LAW ###(2018)

**Being a by-law to regulate Election Signs within the
Town of Pelham; and to repeal Section 12.1 of the
Town of Pelham Sign By-law, 3310(2012).**

WHEREAS the *Municipal Act, S.O. 2001, c.25*, Section 8 provides that a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under this or any other Act;

AND WHEREAS the *Municipal Act*, Section 11(3) provides for the specific spheres of jurisdiction under which the lower and upper tier municipalities may pass by-laws respecting specific matters including matters with respect to signs;

AND WHEREAS the powers conferred under Sections 8 and 11 shall be exercised by by-law;

AND WHEREAS Section 99 specifically sets out the guidelines relating to the passing of by-laws relating to signs and advertising devices;

AND WHEREAS pursuant to Section 63 of the *Municipal Act* which 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 the Corporation of the Town of Pelham deems it expedient to pass a by-law to regulate the erection of signs for federal, provincial and municipal elections;

NOW THEREFORE BE IT RESOLVED THAT the Municipal Council for the Corporation of the Town of Pelham enacts as follows:

1. DEFINITIONS:

"Act" means the *Municipal Act, 2001 S.O. 2001, c. 25, as amended*;

"Boulevard" means the portion of a 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;

"By-Election" means an election other than a regular election;

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

"Candidate" means:

- 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 or agent for a registered person seeking to influence other persons to vote for or against any question or by-law submitted to the electors under section 8 of the Municipal Elections Act, 1996, as amended;

"Clerk" means the Municipal Clerk of the Corporation of the Town of Pelham, or a person delegated by the Municipal Clerk for the purpose of this By-law;

"Corporation", "Municipality" and "Town" means the Corporation of the Town of Pelham;

"Council" means the Council of the Town of Pelham;

"Daylighting Triangle" means an area free of buildings or structures or other visual obstructions, and which are to be determined by measuring, from the point of intersection of street lines on a corner lot, a minimum of 9 m (29.53 ft.) along each such street line and joining such points with a straight line, and the triangular shaped land between the intersecting street lines and the straight line joining the points the required distance along the street lines is the daylighting triangle;

"Election" means any federal, provincial, regional or municipal election or by-election, and any question or by-law submitted to the electors and includes an election to a local board or commission;

"Election Headquarters" means the central location from which an election is administered and for the purposes of a municipal election, shall mean the Town Hall;

"Election Period" means the period from when Candidate Nomination or Third Party Registration papers are submitted, up to and including Voting Day;

"Election Sign" means a sign, including without limitation, posters, placards, bulletins, banners, notices and/or signs not permanently affixed to the ground and specifically designed and intended to be readily moved from place to place, which by the use of words, pictures or graphics or any combination thereof is intended to influence, promote, oppose or take a 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*, as amended;
- 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*, as amended;
- iii. A question, law or by-law submitted to the electors under the the *Canada Elections Act*, the *Election Act (Ontario)* or the *Municipal Elections Act, 1996*, as amended;

"Enforcement Officer", "Municipal Law Enforcement Officer" and **"Officer"** means a Municipal Law Enforcement Officer appointed by the Municipal Council of the Town of Pelham;

"Erect" means anything done in the installation, placement, display, maintenance, repair, or alteration of any sign;

"Erector" means anyone who does anything or permits anything to be done, or causes anything to be done, in the erection of any sign;

"Ground Sign" means a sign 3m (9.84 ft.) or less in height directly supported from the ground without the aid of any building or structure other than the sign structure;

"Height of Sign" means the vertical distance from the ground to the highest point of the sign or sign structure;

"Intersection" means the area embraced within the prolongation or connection of the lateral curb lines or, if none, then of the lateral boundary lines of the pavement of two or more highways that join one another at an angle, whether or not one highway crosses the other;

"Island" means a raised area in the middle of a road, designated to channel traffic and aid pedestrians in crossing;

"Land" means any private property, premises, grounds, yard or vacant lot and includes any building or structure thereon not actually used as a dwelling;

"Lot" means any parcel of land whether such parcel is described in a registered deed, or shown as a lot or block in a registered plan of subdivision and shall also mean a parcel of land identified in a registered lease agreement as a separate entity related to a separate and distinct building on the lands;

"Lot Line" means any boundary of a lot;

"Motor Vehicle" includes an automobile, motorcycle, motor assisted bicycle and any other vehicle propelled or driven otherwise than by muscular power, but does not include the cars of electrical or steam railways, or other motor vehicles running only upon rails, or traction engine, farm tractor, self-propelled implement of husbandry or road-building machine within the meaning of the Highway Traffic Act;

"Occupier" means any person, firm or corporation having control over any portion of the building or land or lot under consideration and includes the persons in the building or on the land or lot;

"Owner" includes:

- i. owner of the sign;
- ii. owner of the property/land/lot on which an election sign is placed;
- iii. any person described on or whose name, image, address or

- iv. telephone number appears on the election sign;
- v. any person who is in control of the election sign;
- vi. any person who benefits from the message on the election sign;
- vii. any person who has placed or permitted to be placed the election sign; and
- viii. shall be deemed to include Candidates and Registered Third Parties; and
- viii. for the purpose of this by-law, there may be more than one owner of the election sign;

"Person" means an individual, business, firm, corporation, association, partnership or entity, candidate, his or her agent or any representative of a candidate, registered third party, his or her agent or any representative of a registered third party; Person shall not mean the Clerk or Enforcement Officer;

"Private Property" means real property under private ownership;

"Public Property" means lands owned by the Corporation of the Town of Pelham, The Corporation of the Regional Municipality of Niagara, the Province of Ontario, or a local board as defined in the Municipal Affairs Act, as amended, and includes any road allowances;

"Reasonable Time" means anytime between the hours of 6 am and 9 pm.;

"Registered Third Party" means an individual, corporation or trade union that is registered under section 88.6 of the Municipal Elections Act, 1996;

"Residential Lands" means any lands zoned "Residential" in accordance with the provisions of any zoning by-laws of the Town of Pelham;

"Roadway" means the part of a highway that is improved, designed or ordinarily used for vehicular traffic;

"Road Allowance" means the allowance for a public road and includes the travelled and untraveled portions of the road allowance, the road shoulders, ditches, boulevards and sidewalks;

"Sidewalk" means 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;

"Sign" means any device displaying any letter, figure, character, mark, point, plane, design, poster, pictorial, stroke, stripe, line trademark reading matter, or illuminating device constructed, attached, erected, fastened or manufactured in any manner whatsoever, so that the same is used or is intended to be used for the attraction of the public to any place, subject, person, firm, corporation, public performance, article, machine or merchandise whatsoever, and displayed in any manner whatsoever, and includes the structure of the said device;

"Street Line" means the boundary line that divides a lot from a road allowance;

"Third Party Advertisement" means an advertisement placed in any broadcast, print, electronic or other medium by a Registered Third Party, 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, as amended;

"Voting Day" means voting day as defined by the Municipal Elections Act, 1996 as amended, and polling day as defined by the Canada Elections Act or the Elections Act (Ontario);

"Voting Location" means a place where electors cast their ballots as approved by the Federal, Provincial or Municipal Election Official(s) and;

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

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

2. GENERAL PROVISIONS:

2.1 No person shall place or permit an Election Sign except in accordance with this by-law.

2.2 No person shall place or permit an Election Sign that is in contravention of the Town of Pelham comprehensive Sign By-law, 3310(2012) or any successor thereto.

2.3 No person shall place or permit or cause to be placed an Election Sign that:

- a) is illuminated;
- b) has flashing lights or rotating parts;
- c) has an appearance which simulates any traffic control device;
- d) interferes with the safe operation of vehicular traffic or the safety of pedestrians;
- e) impedes or obstructs the Town of Pelham maintenance operations.

2.4 No person shall:

- a) place or permit to be placed an Election Sign on or in a Voting Location;
- b) place or permit to be placed an Election Sign on or in a motor vehicle that is parked on any premises used as a Voting Location;
- c) place or permit to be placed an Election Sign on or in a motor vehicle that is parked or driven on Election Headquarters property, nor be parked on the road allowance

immediately abutting Election Headquarters property, throughout the Election Period.

2.5 An Election Sign may be displayed on or in a motor vehicle provided:

- a) the display of such election sign is not contrary to the provisions of this by-law;
- b) such Election Sign, if on the exterior of the motor vehicle, is mounted flush on the motor vehicle body;
- c) such Election Sign is not displayed so as to contravene the provisions of sections 73.(1) or 74.(1) of the Highway Traffic Act, R.S.O. 1990, c.H.8, as amended.

2.6 No person shall place or remove an Election Sign, or cause an Election Sign to be placed on or removed from, private property without the consent of the candidate or registered third party to whom the sign relates, or the owner of the property on which the sign is erected.

2.7 Election signs are not permitted on public property, and shall not be erected within the road allowance of the Town of Pelham or the Regional Municipality of Niagara, including medians and islands, utility poles, light standards and traffic signal standards. Election candidates shall be responsible for compliance with the signage by-laws and regulations of the Regional Municipality of Niagara and Province of Ontario as the case may be.

2.8 Election signs, including signs attached to vehicles, are not permitted to be erected or displayed in any way on Town property or buildings, including but not limited to the municipal offices, town parks, cemeteries, arena, libraries and fire halls.

2.9 Election Signs erected on the ground shall be located not less than 1.0 m (3.3 ft) from a lot line and a street line, and shall not place a sign with a height greater than 1.0m (3.3ft) within a Daylighting Triangle.

2.10 Election signs erected on residential only lands shall not exceed 0.6 m² (6.5ft²) in sign area.

2.11 No election sign shall be erected on the property where a polling facility is located, or within 60 m (197 feet) of a polling facility.

2.12 Election Signs for Candidates and/or Third Party Advertisers relating to a Municipal Ward Councillor shall not be placed outside of the Ward in which the Candidate seeks to represent.

2.13 A lessee or tenant of property may display an Election Sign as such conditions to reasonable size or type a landlord, building manager or condominium corporation deems appropriate.

2.14 No person shall deface or wilfully cause damage to a lawfully erected Election Sign.

2.15 The Town or any of its municipal servants, employees, agents or contractors will not be responsible for investigating or

prosecuting for any acts of vandalism to Election Signs.

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

2.17 Election Signs shall include:

- a) Where the owner is a candidate;
 - a. Name of candidate
- b) Where the owner is a registered third party;
 - a. Name of the registered third party;
 - b. The municipality where the registered third party is registered;
 - c. Telephone number, mailing address or email address at which the registered third party may be contacted regarding the Third Party Advertisement.

2.18 A candidate or third party registrant is required to submit a deposit in accordance with Schedule "A" before any person shall place or permit to be placed an Election Sign.

2.19 Subject to any deductions made under this by-law, a candidate or registered third party is entitled to have his/her deposit refunded, no later than 90 days after Voting Day.

2.20 If costs incurred by the Town in removing a candidate's sign(s), pursuant to this by-law, exceed the deposit paid by the candidate, the town shall notify the candidate who shall have five (5) business days after the date notice is received to pay:

- a) Outstanding costs of removal at a cost in accordance with Schedule "A"; and
- b) A further deposit as required under Schedule "A".

2.21 No permits are required from the Town for placing of Election Signs.

2.22 This by-law does not supersede any authority or remedy provided under the *Canada Elections Act*, the *Election Act (Ontario)* or the *Municipal Elections Act, 1996*, as amended.

2.23 This by-law does not relate to signs erected by or under the direction of the Clerk for the Town of Pelham, or by the Regional Clerk, as they relate to voting locations or voting booths, etc. which are not deemed to be campaign or third party signs.

3. TIME RESTRICTIONS:

3.1 Election signs shall not be erected for a municipal election earlier than forty-five (45) days before voting day, with the exception of signage at a campaign headquarters.

3.2 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.

3.3 Despite Section 3.1 and 3.2 of this by-law, Election Signs may be erected at a Campaign Office once the candidate/third

party has filed his or her nomination/registration papers and paid the required filing fee. For the purpose of this section, a candidate may designate only one building or part thereof in the municipality as the Campaign Office at any one time and must advise the clerk, in writing, of the address of the Campaign Office prior to erecting signs authorized by this section.

3.4 Election and campaign headquarters signs shall be removed no later than three (3) days following Election Day. The candidate shall be responsible for removal of the signs.

4. REMOVAL AND RETURN OF ELECTION SIGNS – POWERS OF THE MUNICIPAL CLERK/ENFORCEMENT OFFICERS

4.1 The Clerk and/or an Enforcement Officer may remove any Election Sign erected in contravention of this by-law without notice.

4.2 Any Election Sign removed as authorized by this by-law may be deposited elsewhere on the property on which it is located, or may be stored by the Town, its employees, agent or contractor.

4.3 If an Election Sign is removed in accordance with this By-law, the candidate/third party to whom the sign relates will be charged a fee, in accordance with Schedule "A", which will be deducted from the refundable portion of the candidate's deposit to cover the cost of the removal of the sign.

4.4 Where an Election Sign has been removed and stored, the Owner may reclaim such sign upon payment to the Town any outstanding costs incurred in the removal of such sign.

4.5 Where a sign has not been reclaimed within thirty (30) days of removal, such sign may be forthwith destroyed or otherwise disposed of by the Town, its employees, agent or contractor.

5. LIABILITY

5.1 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 wilful acts of such person, or his or her agents or employees, in the construction erection, maintenance, repair or removal of any such signs. Further, provisions of this section shall not be construed as imposing on the Corporation of the Town of Pelham, its officers, employees, servants, agents and contractors, any responsibility or liability whatsoever by reason of the removal of any sign.

6. ENFORCEMENT

6.1 This By-law may be enforced by the Clerk and/or the Enforcement Officer.

7. ENTRY AND INSPECTION

7.1 Subject to the following conditions, an officer may at any reasonable time enter onto land for the purpose of carrying out an inspection to determine whether or not the provisions of this by-law are being complied with:

7.1.1 The power of entry shall be exercised by an employee, officer or agent of the municipality or a member of the police force of the municipality;

7.1.2 The person exercising the power must on request display or produce proper identification;

7.1.3 The person exercising the power may be accompanied by a person under his or her direction;

7.1.4 Except as provided in Section 7.1.5, authorization from the occupier of the land is required prior to exercising the power of entry provisions;

7.1.5 If the required authorization as per Section 7.1.4 is not obtained, a notice of the proposed entry shall be provided to the occupier of the land;

7.2 Where a notice of a proposed entry is required to be given as per Section 7.1.5, the notice must satisfy the following requirements:

7.2.1 The notice must be given to the occupier of the land in respect of which the power of entry will be exercised;

7.2.2 The notice may be given by personal service, prepaid mail or by posting the notice on the land in a conspicuous place;

7.2.3 The notice must be given a minimum of 24 hours before the power of entry is exercised.

8. RESTRICTIONS

Every occupier shall permit an officer to inspect any land for the purposes as set out in Section 7.1 of this by-law.

9. INSPECTION POWERS

For the purposes of an inspection, an officer may;

9.1. require the production for inspection of documents or things relevant to the inspection;

9.2. inspect and remove documents or things relevant to the inspection for the purpose of making copies or extracts;

9.3 require information from any person concerning a matter related to the inspection; and

9.4 alone or in conjunction with a person possessing special or expert knowledge, make examinations or take photographs, necessary for the purposes of the inspection.

10. OBSTRUCTION

10.1 No person shall obstruct, or attempt to obstruct, any officer or other person who is exercising a power or performing a duty under this by-law or the Municipal Act, 2001, S.O. 2001, c.25, as amended, or its predecessor.

10.2 Without limiting Section 10.1, "obstruct" includes:

10.2.1 to hinder or mislead;

10.2.2 to knowingly provide false information or make a false claim or statement;

10.2.3 to prevent, bar or delay, or attempt to prevent, bar or delay, entry or inspection by an officer, or any person under his or her direction;

10.2.4 to prevent, bar or delay, or attempt to prevent, bar or delay, any person, including an officer, from carrying out his or her duties or exercising his or her powers, including but not limited to the removal of documents or things relevant to the inspection, or the taking of any tests, samples or photographs necessary for the purposes of the inspection;

10.2.5 to prevent, bar or delay, or attempt to prevent, bar or delay, any person, including an officer, from carrying out his or her duties or exercising his or her authority pursuant to an order issued by a provincial judge or justice of the peace under Section 438 of the Municipal Act, 2001, S.O. 2001, c.25, as amended; and

10.2.6 to fail to provide, upon request by an officer, any information, documents or things relevant to an inspection.

10.3 Without limiting Sections 10.1 and 10.2, every person who is alleged to have contravened any of the provisions of this by-law shall identify themselves to an officer upon request and failure to do so shall be deemed to have obstructed the officer in the execution of his or her duties contrary to Section 10.1 of this by-law.

11. VALIDITY/SEVERABILITY

11.1 In the event that any provision of this by-law is declared by a court of competent jurisdiction to be invalid, the same shall not affect the validity of the remaining provisions of this by-law.

12. PRECEDENCE OVER OTHER BY-LAWS

12.1 In the event of a conflict between this by-law and the provisions of another Town by-law, the provisions of this by-law shall prevail.

13. PENALTY

13.1 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.

14. REPEAL, FORCE AND EFFECT

14.1 Upon enactment of this by-law, Section 12.1 – Election Signs, By-law #3310(2012) be and is hereby repealed.

14.2 THAT this By-law shall come into force and effect upon the date of passing.

ENACTED, SIGNED AND SEALED THIS
19th DAY OF APRIL, 2018 A.D.

MAYOR DAVE AUGUSTYN

CLERK NANCY J. BOZZATO

SCHEDULE 'A'
TO BY-LAW ####(2018)

ELECTION SIGN DEPOSIT

Type	Deposit Required
Municipal Election or By-Election	
<ul style="list-style-type: none">• Mayor• Regional Chair• Regional Councillor• Third Party Advertiser	\$250.00
<ul style="list-style-type: none">• Ward Councillor	\$150.00
<ul style="list-style-type: none">• School Board Trustee	\$75.00
Federal/Provincial Election or By-Election	\$250.00
Sign Removal Fee (Per Sign)	\$25.00