The Corporation of the City of Burlington

City of Burlington By-law 12-2022

A by-law to regulate election signs in the City of Burlington
and repeal By-law 18-2018
File: 790-01 & 110-04-1 (CL-04-22)

Whereas, section 11 of the *Municipal Act, 2001 S.O. 2001 c. 25, as amended* authorizes municipalities to pass by-laws respecting signs; and

Whereas subsection 63(1) of the *Municipal Act, 2001 S.O. 2001, c. 25*, 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 any object placed or standing on or near a highway; 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 City of Burlington is guilty of an offence; and

Whereas Council deems it necessary and in the public interest to regulate election signs; and

Whereas a stand-alone by-law to regulate election signs will help candidates, campaign teams, and the public readily access election sign provisions;

Now therefore the Council of the Corporation of the City of Burlington hereby enacts as follows:

PART 1: DEFINITIONS

1.1 DEFINITIONS

For the purposes of this by-law, the following definitions shall apply:

"campaign headquarters" means a building or structure, or part of a building or structure thereof, where a registered candidate or third party advertiser has set up an office to conduct an election campaign, in a zone permitted in accordance with the City's Zoning By-law, as amended, one per candidate.

"Candidate" means a person who has been nominated under the *Canada Elections Act*, the *Elections Act (Ontario)* or the *Municipal Elections Act, 1996* as amended;

"City" as the context requires, means "The Corporation of the City of Burlington";

"City Clerk" means the City Clerk of the City or a person delegated by them for

the purpose of this by-law;

"Council" means the Council for the City of Burlington and includes its successor;

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

"Election Sign" means a sign advertising or promoting or opposing the election of a political party or candidate for public office in a federal, provincial or municipal election and includes signs promoting the position of a person registered to campaign with respect to a question on a ballot and third-party election signs. An Election Sign does not include any election campaign literature or signs displayed in or on a vehicle or trailer, including a vehicle wrap;

"Highway" includes a common and public highway, street, avenue, parkway, driveway, square, place, bridge, viaduct, trestle or other public way;

"Owner" means any Person who is the registered owner of the land, a lessee or occupant of the land or any Person managing or receiving the rent of the land or premises;

"person" means an individual, partnership, corporation, business trust, limited liability company, limited liability partnership, joint stock company, trust, unincorporated association, joint venture, company or other entity;

"registered third party advertiser" means an individual, corporation, or trade union that is registered in accordance with the requirements for registration in a municipal, provincial, or federal election or referendum;

"Voting Day" means any day on which physical in person voting takes place.

"Voting Place" means any public building or property, including a parking lot, where in person voting takes place;

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

PART 2: BY-LAW TITLE

2.1 This by-law shall be referred to as the "Election Sign By-law".

PART 3: GENERAL PROVISIONS

3.1 No Person shall display or permit to be displayed an Election Sign within

the City except in accordance with the provisions of this by-law and all applicable legislation.

3.2 If there is any conflict with this by-law or any other City by-law regulating signs the Sign By-law shall prevail.

3.3 This by-law shall not apply to signs displayed by the City or the provincial or federal governments to provide information concerning an Election or any part of an Election process.

3.4 No person shall display an Election Sign at any location other than entirely on private property.

3.5 No person shall display an Election Sign on private property without the permission or consent of the Owner of the property.

3.6 No person shall display, or permit to be displayed, an Election Sign which is in a state of disrepair so as to be unsafe or unsightly.

3.7 No person shall display an Election Sign that:

a) is painted on, attached to or supported by a tree, stone or other

b) incorporates flashing lights or rotating parts;

c) is illuminated;

d) simulates any traffic control device;

e) is affixed to public utility poles;

f) impedes or obstructs the passage of pedestrians where they are reasonably expected to walk;

g) interferes with the safe operation of vehicular traffic or the safety of pedestrians, including the visibility of warning devices and traffic signals; impedes or obstructs City maintenance operations;

is displayed so as to obstruct, impede, hinder or prevent parking by vehicles on private or public lands or on a Highway;

h) that obstructs, impedes, or interferes with any fire escape, fire exit door, window, skylight, flue, air intake or exhaust or any means of access by a firefighter to any part of a building or fire hydrant; or

i) is in contravention of the *Elections Act (Ontario), Canada Elections Act* or the *Municipal Elections Act*, as applicable.

3.8 No person shall remove, deface or willfully cause damage to a lawfully displayed Election Sign.

3.9 No person shall, at any time on any Voting Day, display an Election Sign or any candidate or third party advertising on a Voting Place property, when physical in person voting is being conducted.

3.10 Third party advertisers must be registered with the City Clerk prior to placing any Election Signs

3.11 Registered third party advertiser signs erected by a registered third party advertiser shall indicate the name of the registered third party advertiser, the municipal, provincial, or federal body where the third party advertiser is registered, and a telephone number, mailing address, or e-mail address at which the third party advertiser may be contacted.

3.12 No person shall display the City's logo or the City's municipal election logo in whole or in part, on any Election Sign.

3.13 Every person using any permanent pylon or fascia sign on the property of a campaign office shall only provide information about the use of the property and may not promote, support or oppose a candidate, political party, or a "yes" or "no" answer to a question on a ballot.

PART 4: TIMING OF DISPLAY

4.1 No person shall erect, or otherwise display an Election Sign:

a) in the case of a municipal Election, forty-five (45) days prior to Voting Day;

i. Notwithstanding subsection 4.1 a) of this By-law, Campaign Headquarters Election Signs may be placed once a Candidate has filed their nomination papers with the City Clerk and paid the requiring filing fee or a Registered Third Party has registered with the City Clerk.

b) in the case of a federal or provincial Election, prior to the day the Writ of Election is issued; or

c) in the case of any Election, for a period greater than four (4) days immediately following the day of the Election.

PART 5: ENFORCEMENT

5.1 The City Clerk or a Municipal Law Enforcement Officer may remove any Election

Sign erected in contravention of this by-law without notice.

5.2 The City may recover any expense incurred pursuant to sections 5.1 of this by-law by adding the expense to the tax roll and collecting it in the same manner as taxes.

5.3 Election Signs removed in accordance with this by-law may be destroyed or otherwise disposed of by the City without notice and without compensation to any party.

PART 6: OFFENCE

6.1 Any person who contravenes any provisions of this by-law is guilty of an offence and upon conviction pursuant to the provisions of the *Provincial Offences Act,* R.S.O. 1990, c. P. 33 is liable to a fine.

6.2 If this By-law is contravened and a conviction entered, the court in which the conviction has been entered and any court of competent jurisdiction thereafter may, in addition to any other remedy and to any penalty that is imposed, make an order prohibiting the continuation or repetition of the offence by the Person convicted.

6.3 Any costs payable or associated with an order of the court are in addition to, and not in substitution for, the payment of any penalty imposed by the court for the commission of an offence under this by-law or any other applicable legislation.

PART 7: SEVERABILITY

7.1 Should a court of competent jurisdiction declare a part or whole of any provision of this by-law to be invalid or of no force and effect, the provision or part is deemed severable from this by-law, and it is the intention of Council that the remainder survive and be applied and enforced in accordance with its remaining terms to the extent possible under law.

PART 8: EFFECTIVE DATE

8.1 This by-law comes into force on the day of its passing.

8.2 By-law 18-2018 is hereby repealed.

8.3 Despite the repeal of By-law 18-2018 under section 8.2 that By-law shall continue to apply to proceedings in respect of offences that occurred before its repeal.

Enacted and passed this 15th day of February, 2022.

Mayor Marianne Meed Ward _____

City Clerk Kevin Arjoon _____