

# **The Corporation of the City of Kenora**

## **By-law Number 32 - 2022**

### **A By-law to Regulate Election Signs in the City of Kenora**

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Whereas Section 8 of the Municipal Act, 2001, S.O. 2001, c.25, as amended, 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 9 of the Municipal Act, 2001 provides that Sections 8 and 11 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 11 (3) of the Municipal Act, 2001, provides that a single tier municipality may pass by-laws within the spheres of jurisdiction set out therein, such as structures, fences and signs; and

Whereas subsection 63 (1) of the Municipal Act, 2001, S.O. 2001, c. 25 as amended, provides that a bylaw 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 bylaw of the Corporation of the City of Kenora is guilty of an offence; and

Whereas section 429 of the Municipal Act, 2001, S.O. 2001, c. 25, as amended, provides that a municipality may establish a system of fines for offences under a bylaw of the municipality passed under that Act; and

Whereas section 445 of the Municipal Act, 2001, S.O. 2001, c. 25, as amended, provides that a municipality may make an order requiring a person who has contravened a bylaw 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 the Corporation of the City of Kenora is of the opinion that the legislative powers under this Bylaw should be delegated to the City Clerk, or his or her designate; and

Whereas the Corporation of the City of Kenora deems it expedient to pass a bylaw to regulate the placement of election signs for federal, provincial and municipal elections and by-elections;

Whereas in accordance with Notice By-law Number 144-2007, public notice of the intention to pass a by-law for this purpose was published;

Now Therefore the Council of the Corporation of the City of Kenora hereby enacts as follows:-

## **1.0 Application of this Bylaw**

1.1 This bylaw applies to all Election Signs placed within the City of Kenora.

## **2.0 Short Title of this Bylaw**

2.1 The short title of this bylaw is the "Election Sign Bylaw"

## **3.0 Administration of this Bylaw**

3.1 The administration of this bylaw is hereby delegated to the City Clerk or his or her delegate.

## **4.0 Shall is Mandatory**

4.1 In this bylaw, the word "shall" is always to be construed as mandatory.

## **5.0. Definitions**

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

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

**"Advance Voting Day"** means one or more days, held not more than thirty (30) days before Voting Day, that are designated by the City Clerk for electors to cast ballots prior to Voting Day.

**"Billboard Election Sign"** means an outdoor sign erected and maintained by a person engaged in the sale or rental of the space on the billboard election sign to a candidate or registered third party for the purposes of advertising, promoting, opposing, or taking a position with respect to any candidate or political party, or influencing electors to vote for or against an issue associated with a candidate or political party, or influencing electors to vote for or against any candidate or any question, law or bylaw submitted to the electors.

**"Boulevard"** means the portion of a street which is not used as a sidewalk, driveway access, travelled roadway, shoulder, median strip or traffic island.

**"By-Election"** means any election other than a regular election in the case of a municipal election or a general election in the case of a provincial or federal election.

**"By-law Enforcement Officer"** means a person employed by the City of Kenora for the purpose of enforcing Municipal By-laws.

**"Campaign Office"** means a building or structure, or portion of a building or structure, which is used by a Candidate or an agent of a candidate or by a registered third party as part of an election campaign and where a Candidate's or registered third party's campaign staff is normally present and the public may enter to obtain information about the candidate or registered third party.

**"Campaign Office Election Sign"** means any sign placed on a campaign office which only displays the name of the candidate in a municipal election, or the name of a candidate and/or the name and/or logo of a political party in a federal or provincial election, or the name of a registered third party in a municipal election, and the location of a candidate's or registered third party's campaign office, and contains no other message.

**"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 to run or has expressed an intention to run in a municipal, provincial or federal election and shall be deemed to include a registered third party seeking to influence electors to vote for or against any candidate or any question or by-law submitted to the electors under the Municipal Elections Act.

**“City”** means the Corporation of the City of Kenora.

**“City Clerk”** means the City Clerk of the City or a person designated by him or her for the purpose of this bylaw.

**“Election”** means a general federal or provincial election or a regular municipal election and any question or bylaw submitted to the electors and includes an election to a local board or commission.

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

**“Election Sign”** means any image, words, sign, picture, device, notice or visual medium or any combination thereof, including, without limitation, any poster, placard, bulletin and banner which:

- i) advertises promotes, opposes or takes a position with respect to any candidate or political party in a federal, provincial or municipal election or by-election including an election of a local board or commission;
- ii) Is intended to influence electors to vote for or against any candidate or an issue associated with a candidate or political party in a federal, provincial, municipal election or by-election;
- iii) is intended to influence electors to vote for or against any candidate or any question, law or bylaw submitted to the electors under the Canada Elections Act, the Election Act (Ontario), or section 8 of the Municipal Election Act;

For the purposes of clarification, an election sign does not include any election campaign literature (eg: pamphlets and brochures) but does include a billboard election sign, campaign office election sign, third party advertisement and vehicle election sign.

**“Electoral District”** means the geographic area represented by a member of a municipal council or a school board

**“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.

**“Median”** means the portion of a highway that separates traffic travelling in one direction from traffic traveling in the opposite direction by means of a physical barrier or a paved or unpaved separation area that is not intended to allow crossing vehicular movement. This includes a central island in a roundabout.

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

**“Nomination Day”** for a regular municipal elections means the deadline to file a nomination with the City Clerk under the Municipal Elections Act, 1996, as amended, as

determined within that legislation. In the case of a by-election, the City Clerk shall fix the date of nomination day in accordance with the provisions of sub-section 65 (4) 1. Of the Municipal Elections Act, 1996.

**“Official Sign”** means a sign placed by the City of control and regulate the movement of vehicles and pedestrians, signs posted by the City under the provisions of the Sign By-law, including a sign approved by the Ministry of Transportation of Ontario, and signs described in the Highway Traffic Act.

**“Permit”** means written permission issued by, and a fee paid to the City to locate, erect or display a sign or signs.

**“Person”** means, but is not necessarily limited to, an individual, business, firm, corporation, unincorporated business, trade union, partnership, or association, and includes a Registered Third Party.

**“Piece of Land”** means a lot or remnant of a lot on a plan of subdivision or land otherwise being capable of being conveyed pursuant to the provisions of the Planning Act.

**“Place”** means to attach, install, erect, build, construct, reconstruct, move, display or affix. Placed, Placement and Placing shall have a similar meaning.

**“Public Property”** means property owned by or under the control of the City, any of its agencies, including highways and streets and shall be deemed to include public utility facilities regardless of whether the public utility poles are owned by or under the control of the City and shall also be deemed to include buses, bus shelters, benches, municipal garbage containers or other structures located on a street regardless of whether the shelters, containers or structures are owned by the City. Property owned by the City and leased to another person shall not be deemed to be public property.

**“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 City, Bell Canada, TBaytel, Enbridge Gas, Synergy North, Hydro One, and any subsidiaries thereof.

**“Premises”** includes the parking lot, adjoining fences and road allowances.

**“Registered Third Party” or “Third Party Advertiser”** means one of the following whose notice of registration has been certified by the City Clerk under Section 88.6 of the *Municipal Elections Act, 1996*;

- a) An individual who is normally a resident in Ontario; or
- b) a corporation that carries on business in Ontario; or
- c) A Trade Union that holds bargaining rights for employees in Ontario

**“Road Allowance”** means the allowance for a public road and includes the traveled and untraveled portions of the road allowance, the road shoulders, ditches, boulevards and sidewalks.

**“Sidewalk”** means that portion of a street with a surface that is improved and designed or ordinarily used for the use of pedestrians and shall include a multi-use path.

**“Sight Triangle”** means the triangular space formed by the street lines of a corner lot and a line drawn from a point in one street line to a point in the other street line, each such point being 15 metres from the point of intersection of the street lines (measured along

the street lines). Where the two street lines do not intersect at a point, the point of intersection of the street lines shall be deemed to be the intersection of the projection of the street lines or the intersection of the tangents to the street lines.

**“Street”** means the allowance for a public road and includes the travelled and untravelled portions of the Street, including the median strips, traffic islands, shoulders, boulevards and sidewalks

**“Third Party Advertisement”** means a sign or advertisement in any broadcast, print, electronic or other medium that has the purpose of promoting, supporting or opposing a Candidate in a municipal election or an election of a local board or commission, or intended to influence persons to vote for a or against any candidate or any question or bylaw submitted to the electors under Section 8 of the Municipal Elections Act, 1996, and which has been erected or displayed without the authorization, direction or involvement of a Candidate;

**“Vehicle”** means a motor vehicle, trailer, traction engine, farm tractor, machine used for road construction or maintenance, bicycle, and any other vehicle drawn, propelled, or driven by any kind of power, including muscular power;

**“Voting Day”** means the day on which the final vote is to be taken in an Election or By Election.

**“Voting Place”** means the location(s) where electors cast their ballots as approved by the federal, provincial, or municipal election officials and includes the entire property and all the boundaries associated with it, including any abutting streets, when such voting place is located within a public or private premises and shall also include the common elements when the voting place is located on private premises.

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

## **6.0 General Prohibitions**

6.1 No candidate or his/her agent or any other person shall affix, erect, post, place or otherwise display an election sign within the limits of any road allowance within the limits of the City except as permitted by this By-law.

6.2 No person shall deface or willfully cause damage to a lawfully erected election sign.

6.3 No person shall place an election sign in such a position that such sign would contravene any other applicable legislation.

6.4 No person shall display on any election sign a logo, trademark or official mark, in whole or in part, owned or licensed by the City.

6.5 No more than two (2) election signs per candidate are permitted on any one piece of land zoned residential.

6.6 No more than three (3) election signs per candidate are permitted on any one piece of land zoned other than residential.

6.7 No candidate or his/her agent or any other person shall affix, erect or otherwise display an election sign:-

- a) On a tree
  - b) In a city park, including the Harbourfront/Greenbelt area
  - c) On any official sign or structure
  - d) On a utility pole or light standard
  - e) Within 10 ft. of any other existing sign, including an election sign
  - f) Traffic control sign or signal
  - g) Guardrail or other form of traffic safety structure or facility
  - h) Any bridge or public fence
  - i) Within a sight triangle
  - j) On any centre median, centre boulevard or traffic island
  - k) shall not interfere with, obstruct the view of, or mimic any traffic or pedestrian sign, signal or device
  - l) Within 5 ft. of a fire hydrant
  - m) Within 5 ft. of a driveway
  - n) Which constitutes a danger or hazard to the general public (pedestrian or vehicular)
  - o) At any voting location/polling place, including on a vehicle parked within 100 ft. of such location.
  - p) On a public sidewalk or in such other location on, over or near a sidewalk so as to interfere with or obstruct normal pedestrian traffic
  - q) On the roof of any building
- 6.8 Notwithstanding Section 8, no person shall pull down or remove a lawfully erected election sign on any property without the consent of the candidate to whom the sign relates or the owner of the property on which the sign is placed.
- 6.9 No sign or advertising device shall be attached to or placed upon any building in such manner as to obstruct any fire escape or to interfere in any way with the work of the Fire Department in case of fire.
- 6.10 No sign or advertising device shall be erected so as to interfere with the sight triangle at intersecting streets.
- 6.11 No person shall place or permit to be placed an election sign on private property without permission or consent of the owner or occupant of the property.
- 6.12 No person shall deface or willfully cause damage to an election sign

6.13 No candidate or Third Party Advertiser, as the case may be, to whom an Election Sign relates shall permit an Election Sign to be left in a state of disrepair.

6.14 No person shall place or permit to be placed on any election sign a logo, trademark, crest or official mark, in whole or in part, owned or licensed by the City of Kenora.

## **7. Size, Display of Signs, and Permits**

7.1 The candidate to whom the election sign relates shall be responsible for the erection, maintenance and/or display of the sign and shall ensure that all requirements of this by-law are met.

7.2 Election signs shall be no larger than 4 ft. x 4 ft. (or 1.22 metres by 1.22 metres).

7.3 No election sign shall consist of an electronic display that incorporates in any manner, any flashing or moving illumination.

7.4 There shall be no fee required to be paid to the City for the display of election signs, except where a sign is to be displayed on a portable or mobile sign. The candidate or his/her agent shall purchase a permit from the City for such sign in accordance with the City's Comprehensive Sign By-law.

## **8.0 Election Signs on Public Property & Timing**

8.1 Election signs are permitted to be erected or otherwise displayed on public vacant property in accordance with the regulations contained in this by-law.

8.2 In the case of a municipal election, no signs shall be erected, located or otherwise displayed until after 4:00 p.m. on the Monday following Nomination Day.

8.3 In the case of a federal or provincial election, no person shall erect, locate or otherwise display an election sign or permit or cause an election sign to be erected or otherwise displayed on **public vacant property** prior to the issuance of writs for such election.

## **9.0 Election Signs on Private Property & Timing**

9.1 For a municipal election, election signs are permitted to be affixed, erected or otherwise displayed on private property in accordance with this by-law, provided the candidate has already filed his or her Nomination Paper with the Clerk's Office and paid the required election filing fee.

9.2 In the case of a federal or provincial election, no person shall erect, locate 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 such election.

9.3 Election signs on private property shall only be erected with the consent of the owner or tenant of the property.

## **10.0 Third Party Election Signs**

- 10.1 In accordance with the Municipal Elections Act, registered 'third parties' may create campaign advertising in the municipal elections.
- 10.2 Third party advertisers shall be required to register with the City Clerk in order to advertise, distribute or display material related to the municipal elections.
- 10.3 The third party shall ensure all materials are produced in accordance with the Municipal Elections Act, 1996, as amended.
- 10.4 Third Parties shall contain the following in any campaign advertisement:
- a) valid and up-to-date contact information, including the name of the registered third party,
  - b) the municipality where the third party is registered,
  - c) a telephone number, mailing address or email address at which the registered third party may be contacted, in order to identify at least one individual responsible for the display of the sign.
- 10.5 Third Party Election Signs displayed by third party advertisers shall comply with the City's regulations respecting Election Signs.

## **11.0 Timing to Remove Signage & Removal of unlawful Election Signs**

- 11.1 All signs erected or otherwise displayed are to be removed within seven (7) days of voting day. Failure to do so will result in a By-law Enforcement Officer removing the signs and destroying them without compensation to the candidate. Costs associated with the removal/disposal of the signs will be charged to the applicable candidate.
- 11.2 If an election sign is located, erected or displayed in violation of this by-law, a By-law Enforcement Officer shall cause the sign to be removed immediately without notice.
- 11.3 Where election signs have been placed on private property, it is the responsibility of the owner or occupant of the property to ensure that the election sign(s) are removed within the required time frame.

## **12.0 Penalties and Offences**

- 12.1 Any person who contravenes any provision of this By-law is guilty of an offence and upon conviction is liable to a fine or penalty as provided for in the *Provincial Offences Act*.
- 12.2 When a person has been convicted of an offence under this by-law:
- a) The Ontario Court of Justice; or
  - b) Any court of competent jurisdiction thereafter, may,
- in addition to any other penalty imposed on the person convicted issue an order prohibiting the continuation or repetition of the offence or the doing of any act or

thing by the person convicted directed toward the continuation or repetition of the offence.

**13. Liability**

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

**14. Conflicts**

In the event of a conflict between the provisions of this by-law and the provisions of another by-law of the City regulating signage, the provisions or the more restrictive enactment shall prevail.

**15. Other Laws**

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.

**16. Validity**

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.

**17. Repeal**

Bylaw Number 30-2018 is hereby repealed.

**18. Force and Effect**

This by-law shall come into force upon third and final reading thereof.

**By-law read a First and Second Time this 19th day of April, 2022**

**By-law read a Third and Final Time this 19<sup>th</sup> day of April, 2022**

**The Corporation of the City of Kenora:-**

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**Daniel Reynard, Mayor**

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**Heather Pihulak, City Clerk**