

**THE CORPORATION OF THE TOWNSHIP OF
OTONABEE-SOUTH MONAGHAN**

BY-LAW NUMBER 2022-12

Being a By-law to manage and regulate "election" signs and
"election" campaign advertisements including third party advertising

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

Whereas subsection 11(3), paragraph 7 of the *Municipal Act, 2001, c.25*, as amended authorizes The Corporation of the Township of Otonabee-South Monaghan to pass by-laws respecting signs; and

Whereas subsection 63(1) of the *Municipal Act, S.O. 2001, c.25* as amended authorizes The Corporation of the Township of Otonabee-South Monaghan, 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. c.25* as amended establishes that any person who contravenes any by-law of The Corporation of the Township of Otonabee-South Monaghan is guilty of an offence; and

Whereas Section 88.3 of the *Municipal Elections Act, 1996*, as amended sets out requirements for Candidates' election campaign advertisements; and

Now Therefore the Council of the Corporation of the Township of Otonabee-South Monaghan *Enacts as Follows*:

Short Title

This By-law shall be cited as "***Election Sign By-law.***"

Application of By-law

This By-law applies to all Election Signs placed within the Township of Otonabee-South Monaghan.

This By-law applies to: Candidates, Council Members (including acclaimed member or a member not seeking re-election) and Third Party Advertisers.

Purpose

1. Achieve clarity of the position and consistency of approach for display of election signs and election campaign advertisements within the jurisdiction of the Corporation of the Township of Otonabee-South Monaghan;
2. Enable the issue to be applied consistently and equitably to all candidates and third party advertisers;
3. Minimize any threat to public safety from the placement of election signs;

Interpretation of this By-law

General

In this By-law, the definitions and interpretations set out shall apply, unless unusual circumstances require otherwise as determined by the Township and any words not specifically defined in this By-law shall carry their dictionary definition.

Singular and Plural Words and Genders

In this By-law, unless otherwise specifically indicated:

- Words used in the singular number include the plural and vice versa;
- Words used in the masculine gender include the feminine; and
- Word variations, for example, Place, Placed, Placement and Placing shall have a similar meaning

Candidate or Registered Third Party Responsible for Election Signs

The Candidate or the Registered Third Party, as the case may be, to whom an Election Sign relates shall be responsible for the Placing, removing and maintenance of the Election Sign and shall ensure that all requirements of this By-law are met.

Definitions

"Act" shall mean the Municipal Act, 2001, S.O. 2001, c. 25, as amended.

"Banner Flag Sign" shall mean a sign made from non-rigid, lightweight material, which is attached to and projects out horizontally in a predominantly perpendicular manner and used primarily for attracting attention.

"Banner Sign" shall mean a sign made from non-rigid, lightweight material, which is secured or mounted to a building or other structure or airplane by its end or corners.

"Billboard Election Sign" shall mean 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 any issue associated with a Candidate or political party, or influencing electors to vote for or against any Candidate or any question, law or by-law submitted to the electors.

"By-Election" shall mean 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.

"Canada Elections Act" shall mean the federal statute cited as the *Canada Elections Act*, S.C. 2000, c. 9, as amended.

"Candidate" shall have the same meaning as in the *Canada Elections Act*, the *Election Act (Ontario)* and the *Municipal Elections Act*, 1996, S.O. 1996, c.32 as applicable, and shall be deemed to include a 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.

"Clerk" shall mean the Clerk of the municipality.

"Election" shall mean a general federal or provincial Election or a regular municipal Election and any question or by-law submitted to the electors and includes an Election to a Local Board or commission.

"Election Act" shall mean the provincial statute cited as the *Election Act*, R.S.O. 1990, c.E.6 as amended.

"Election Sign" shall mean 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 school board trustee; or
- II. Is intended to influence electors to vote for or against an issue associated with a Candidate or political party in a federal, provincial or municipal Election or By-election.
- III. Is intended to influence electors to vote for or against any Candidate or any question, law or by-law submitted to the electors under the Canada Elections Act, the *Election Act (Ontario)* or section 8 of the *Municipal Elections Act, 1996*; or
- IV. That uses words, pictures or graphics or any combination thereof intended to influence persons to vote for or against any question or by-law submitted to the electors under Section 8 of the *Municipal Elections Act, 1996, S.O. 1996, c.32*.

For the purposes of clarification, an Election Sign does not include any Election campaign literature (e.g. pamphlets and brochures) but does include a Billboard Election Sign, Third Party Advertisement and Vehicle Election Sign.

"Electoral District" shall mean the geographic area represented by a member of a municipal council or a school board.

"Electronic Sign" shall mean an electronically and/or computer controlled sign, or that part thereof, which displays illuminated copy and graphic information in a pre-arranged sequence for continuous scrolling or flashing display or other form of animation.

"Inflatable Sign" shall mean a sign or advertising device designed to be inflated with air or gas and may be designed to be airborne and tethered to ground, water, a building or other structure.

"Mobile Sign" shall mean a sign designed to be readily moved from one location to another and which does not rely on a building or fixed foundation for its structural support. This definition shall include a manual changing copy sign in which the letters or numerals conveying the message can be manually rearranged or changed. It does not include a sign displayed on a vehicle.

"Motorized Sign" shall mean a sign designed with motorized movement.

"Municipal Elections Act 1996" shall mean the provincial statute cited as the *Municipal Elections Act, 1996, S.O. 1996, c.32* as amended.

"Nomination Day" shall mean for a regular municipal Election means the deadline to file a nomination with the Clerk under the *Municipal Elections Act, 1996*, as amended. In the case of a municipal By-Election the 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*.

"Person" shall mean, but is not necessarily limited to, an individual, business, firm, corporation, unincorporated business, trade union, partnership or association and include a Registered Third Party.

"Place" shall mean to attach, install, erect, build, construct, reconstruct, move, display or affix. Placed, placement and Placing shall have a similar meaning.

"Public Property" shall mean property owned, leased, or maintained by The Corporation of the Township of Otonabee-South Monaghan.

"Public Utility Pole" shall mean a pole owned or controlled by an entity which provides a public utility service, including but not limited to, Hydro One and Bell Canada.

"Third Party Advertiser" shall mean an individual, corporation or trade union who has filed with the Clerk of the local municipality responsible for conducting an election a notice of registration to be a registered third party for the election as in Section 88.6(1) of the *Municipal Elections Act, 1996*, as amended.

"Third Party Advertisement" shall mean an advertisement in any broadcast, print, electronic or other medium that has the purpose of promoting, supporting or opposing;

- I. A candidate;
- II. A "yes" or "no" answer to a question referred to in subsection 8 (1), (2) or (3) of the *Municipal Elections Act*.
But does not include an advertisement by or under the direction of a candidate or an advertisement described in Section 1, subsection (2) or (2.1) of the *Municipal Elections Act, 1996, S.O. 32*.

"Township" shall mean The Corporation of the Township of Otonabee-South Monaghan.

"Township Logo or Wordmark" shall mean the current logo, wordmark, symbol or insignia adopted by or created by the Township of Otonabee-South Monaghan which is displayed on the Township website, social media platforms, letterhead, signage or equipment and vehicles owned by The Corporation of the Township of Otonabee-South Monaghan.

"Vehicle Sign" shall mean any form of Election sign displayed in or on a vehicle, including vehicle wrap.

"Voting Day" shall mean the day on which the final vote is to be taken in an Election or By-Election.

"Water Billboard" shall include inflatable and amphibious floating signs on water and signs mounted to motorized and non-motorized boats.

Implementation

1. No fee shall be charged by the Township and no permit shall be required in order to place an election sign in accordance with this By-law.

General Provisions

2. Election signs shall **"not"**:
 - I. Be illuminated or have flashing lights;
 - II. Have rotating parts;
 - III. Be inflatable;
 - IV. Be motorized;
 - V. Be mobile;
 - VI. Stimulate traffic control device;
 - VII. Have a sign area greater than 3 sq. m. (32 sq.ft)
 - VIII. Have a sign height greater than 2 m (6.6 ft) above the surrounding ground
 - IX. Be located within 3 metres of the curb, the edge of the travelled highway or the shoulder of the highway;
 - X. Be located within 1 metre of a sidewalk

3. No person shall at any time display on any sign or on any election campaign advertisement:
 - I. The Township of Otonabee-South Monaghan logo or wordmark, in whole or in part.
 - II. An image of Otonabee-South Monaghan signage in whole or in part.
4. No person shall at any time place an election sign, or cause an election sign to be placed, that:
 - I. Obstructs the visibility of intersections, private entrances, pedestrians, vehicles or traffic control devices or regulatory signage, as determined by the Director of Public Works or their designate.
 - II. Impedes the necessary sightlines of motorists, municipal snowplow operations or access to a private owner.
 - III. Is nailed or otherwise attached to or upon any utility pole, light standard, a guardrail or other form of traffic safety structure or facility, utility box, tree, planter, bench, waste receptacle, newspaper box or mailbox, including a community mailbox and a hydrant.
 - IV. Is affixed to an airplane, a boat, dock or buoyed in the water such as an amphibious water sign or inflatable sign;
 - V. Is on any premises used as a Voting Place / Help Centre for elections;
 - VI. 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;
 - VII. Is located on a sidewalk;
 - VIII. Is affixed to a permanent or official highway sign, signal or support guiderail or other roadway structure; or
 - IX. Creates a safety hazard
5. This By-law shall not apply to signs placed by the Township or the Provincial or Federal governments to provide information concerning an Election or By-Election or any part of an Election or By-Election process.
6. For a Municipal Election, no Person shall Place or permit to be placed an Election sign outside of the boundaries of the Electoral District(s) where the Candidate is running for office.

5. Election signs may be erected or displayed on private property with the consent of the owner or occupant of the property provided that it does not interfere with safe operation of vehicular traffic or impair the safety of pedestrians.
6. No person shall at any time place an election sign, or cause an election sign to be placed on any property that is owned, leased or maintained by the Township of Otonabee-South Monaghan, including but not limited to:
 - I. Municipal Office;
 - II. Fire Halls;
 - III. Public Works Yards;
 - IV. Community Centres;
 - V. Public Libraries;
 - VI. Municipal Parks;
 - VII. Keene Medical Centre
 - VIII. Transfer Station
 - IX. Vacant parcel / lot of land owned by the Municipality
7. Election signs shall not be placed / affixed to any building owned, leased or operated by the Township of Otonabee-South Monaghan.
8. Election signs shall not be permitted on a municipal road allowance immediately adjacent to the properties noted in Section 6 of this By-law.
9. Election signs may be placed on a municipal road allowance provided that the regulations in Sections 2 and 3 of this By-law are adhered to.
10. No person shall place or permit to be placed an Election Sign for a Federal or Provincial election or a by-election earlier than the day the Writ of Election or by-election is issued.
11. No person shall place or permit to be placed an Election Sign for a municipal election or by-election earlier than the day following the close of Nomination Day in the year of that election.
12. Section 88.3 (2) of the *Municipal Elections Act, 1996*, as amended sets out that an election campaign advertisement purchased by or under the direction of a candidate shall identify the candidate. A candidate election campaign sign that states:
 - I. The name of the candidate or the name of the candidate in combination with the words "Elect (candidate's name)"; or

- II. "Re-elect (candidate name)"; or
- III. "Vote (candidate name)"; or
- IV. "(Candidate Name) for the office of (i.e. Mayor, Deputy-Mayor, Councillor)"

will be deemed to meet the requirements of the Act

- 13. Section 88.3 (3) of the *Municipal Elections Act, 1996* as amended sets out that a candidate shall not cause an election campaign advertisement to appear unless he or she provided the following information to the broadcaster or publisher in writing:

- I. The name of the candidate;
- II. The name of, business address and telephone number of the individual who deals with the broadcaster or publisher under the direction of the candidate.

Removal of Election Signs

- I. No person shall deface, relocate, remove willfully cause damage or permit damage to be caused to a lawfully erected Election Sign, except for the owner or his/her agent.
- II. The Township shall not be liable for any damage or loss to an Election Sign that was displayed in accordance with this by-law or that was removed by the Township pursuant to the provisions of this by-law.
- III. The Director of Public Works or their designate, may remove any election sign placed in contravention of this By-law without notice.
- IV. Election signs removed by the Township shall be stored by the Township at for a period of not less than one (1) week and made available for return to the owner or agent.
- V. Election signs that have not been removed, claimed and retrieved by the Candidate, Person or Owner in accordance with this by-law may be destroyed or otherwise disposed of by the Township without notice and/or any compensation to any party.
- VI. The Township reserves the right to remove any offending Election Sign, or which is deemed to be a hazard or otherwise, or that is in non-compliance with this by-law without notice and/or any compensation to any party. A courtesy call may be given to the owner or their agent that the sign has been removed.
- VII. Where an Election Signs are placed on private property that are causing a safety issue, the Director of Public Works or their designate, shall remove the sign upon it being brought to their attention and the cost of such removal may be charged back to the owner of the sign.

- VIII. Every person shall fully remove their election signs within **72 hours** (3 days) immediately following the end of Voting Day at their own expense.

Enforcement

This By-law may be enforced by the Director of Public Works or designate; Township By-law Enforcement Officers; Police or the Clerk or Designate of the Township.

Other Approval Authorities

- I. Election signs or similar campaign material that will be installed or affixed to the Ministry of Transportation road network or The County of Peterborough road network will require explicit permission by these respective approving authorities.
- II. Election signs or similar campaign material that will be installed or affixed to Poles belonging to Hydro One Network, Bell Canada or other public utility shall require the permission of these respective approving authorities. The Candidate shall provide such permission to the Clerk or designate of the township.
- III. Notwithstanding the above, should any approval authority delegate its powers and duties to the Township of Otonabee-South Monaghan regarding election signage and/or campaign advertising, this by-law shall be applicable.

Third Party Advertisers

Section 88.4 of the *Municipal Elections Act*, 1996, as amended, sets out provisions for third party advertising and introduces a framework to regulate third-party advertising, which include contribution and spending limits.

- I. The Act defines a third-party advertisement as an advertisement in any broadcast, print, electronic or other medium that has the purpose of supporting or opposing a candidate, or a "yes" or "no" answer to a question under clause 8 (1) (a) (b) or (c)
- II. In addition to the above, third party advertisers are required to provide on their signs the following information:
 - The name of the registered third party;
 - The municipality where the registered third party is registered;
 - A telephone number, mailing address, or email address at which the registered third party may be contacted regarding the advertisement

Vandalism

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. The Township or any of its municipal employees or agents will **not** be responsible.

Administration

The Clerk or their designate is responsible for the administration of this By-law.

Force and Effect

- I. This By-law shall come into force and take effect on the day it is passed
- II. Should any of the provisions contained herein conflict with any other by-law, the provisions of this By-law 2022-12 shall apply.

In the event that a section or sections of this by-law thereof are found by a Court of competent jurisdiction to be invalid or ultra vires, such section, sections or parts thereof shall be deemed to be severable with all other sections or parts of this by-law remaining in full force and effect.

Read a First time this 7th day of February, 2022.

Read a Second and Third time, signed and sealed with the Corporate Seal this 7th day of February A.D. 2022.

Mayor – Joe Taylor

Clerk – Heather Scott