# Town of Whitby
# By-law # 7749-21

## Election Sign By-law

Being a By-law to regulate the placement of election campaign signs in the Town of Whitby.

Whereas the Municipal Act, 2001, S.O. 2001, c. 25, as amended, provides in paragraph 11(3)7 that a lower tier and upper tier municipality may pass by-laws, subject to the rules set out in subsection 11(4) within the following spheres of jurisdiction: structures, including fences and signs;

And Whereas the Municipal Act, 2001, S.O. 2001, c. 25, as amended, provides in subsection 27(1) that a municipality may pass by-laws in respect of a highway only if it has jurisdiction over the highway;

And Whereas The Regional Municipality of Durham, pursuant to By-law Number 52-2020, has stated that where a lower-tier municipality within the Region of Durham has enacted a temporary sign and/or election sign by-law, the Region adopts those provisions of the lower-tier municipality's by-law which apply to roads forming part of the Region's road system within the geographic jurisdiction of that lower-tier municipality;

And Whereas The Regional Municipality of Durham, pursuant to By-law Number 52-2020, has stated that where a lower-tier municipality within the Region of Durham has enacted a temporary sign and/or election sign by-law, the Region delegates the authority to enforce the provisions of that by-law on Regional roads in the lower-tier municipality to the Municipal Law Enforcement Officers of that lower-tier municipality;

And Whereas the Council of The Corporation of the Town of Whitby adopted Resolution # 121-21 following consideration of Report LS 05-21 at its meeting on April 26, 2021, wherein staff were directed to bring forward a standalone by-law to regulate the placement of election campaign signs within the Town of Whitby;

Now therefore, the Council of The Corporation of the Town of Whitby hereby enacts as follows:

### 1. Definitions

1.1. In this by-law,

(a) "**adjacent boulevard**" means the boulevard that is immediately adjacent to the front yard or side yard of a property;

(b) "**boulevard**" means that part of the highway lying between the roadway and the property line;

(c) "**display surface**" means the surface of a sign, excluding the sign support structure, upon, against, or through which the message of the sign is displayed;

(d) "**division fence**" means a fence marking the boundary between adjoining parcels of land or a highway;

(e) "**election sign**" means any image, words, sign, picture, device, notice, or visual medium, or any combination thereof, including, without limitation, any poster, placard, bulletin, or banner that: solicits votes, promotes, identifies, influences, supports, or opposes the election of a person, candidate, or political party, including an answer to a referendum question on a ballot; for clarification, an "election sign" includes a sign from a registered third party advertiser, but does not include any election campaign literature or vehicle election sign;

(f) "**erect**" means to display, attach, affix, post, alter, construct, place, locate, install, maintain, or relocate;

(g) "**highway**" has the same meaning as it is defined in s. 1(1) of the Highway Traffic Act, R.S.O. 1990, c. H.8, as amended, and shall include an unopened and/or unassumed highway;

(h) "**Officer**" means a Municipal Law Enforcement Officer appointed by the Council of the Town to enforce municipal by-laws;

(i) "**owner**" includes a lessee, tenant, legal title holder, or such other person in charge or possession of property, and "owned" has a similar meaning;

(j) "**person**" includes, but is not limited to, an individual, corporation, partnership, association, or sole proprietorship, and the heirs, executors, administrators, or other legal representatives of a person;

(k) "**private property**" includes, but is not limited to, any grounds, yard, parking lot, vacant land, or other parcel of land that is not part of a highway;

(l) "**Region**" means The Regional Municipality of Durham;

(m) "**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;

(n) "**roadway**" means the part of the highway that is improved, designed or ordinarily used for vehicular traffic, including the shoulder;

(o) "**sign area**" means,

(i) in the case of a sign having one display surface, the area of the display surface;

(ii) in the case of a sign having two display surfaces which are separated by the thickness of the sign structure and the thickness is not used as a display surface, the area of one display surface;

(iii) in the case of a free standing number, letter, or shape, the smallest rectangle which will enclose the number, letter or shape; and

(iv) in the case of groupings of free standing numbers, letters or shapes, or combinations thereof, the sum of the areas of the smallest rectangles which will enclose each separate grouping of letters, numbers, or shapes;

(p) "**sign height**" means the height of a sign measured by the vertical distance from the ground directly below the sign to the highest extremity of the sign;

(q) "**Town**" means The Corporation of the Town of Whitby or the geographical area of the Town of Whitby, as the context requires;

(r) "**vehicle election sign**" means any election sign displayed in or on an operable and licensed vehicle, and includes an election sign in the form of a vehicle wrap; and

(s) "**voting location**" means any building or part thereof where voting takes place during a municipal, provincial, or federal election or referendum, or as otherwise defined by the Town Clerk or by a provincial or federal election official.

## 2. Interpretation and Administration

2.1 All dimensions are in metres (m) or square metres ($m^2$) unless otherwise indicated and all submissions shall be dimensioned as such.

2.2 The private property owner upon which any election sign is located shall maintain such election sign in a proper state of repair so that such sign does not become an unsafe sign or unsightly.

2.3 Where a conflict exists between the provisions of this by-law and any other by-law regulating signage within the Town of Whitby, the provisions of this by-law shall prevail for an election sign.

2.4 This by-law shall be read with all changes in gender or number as the context requires.

2.5 In this by-law, a grammatical variation of a word or expression defined has a corresponding meaning.

2.6 Each section of this by-law is an independent section, and the holding of any section or part of any section of this by-law to be void or ineffective for any reason shall not be deemed to affect the validity of any other sections of this by-law.

2.7 This by-law applies to all election signs erected within the Town.

## 3. General Provisions

3.1 No person shall erect or display or permit or cause the erection or display of an election sign that is not in accordance with the provisions of this by-law.

3.2 No person shall erect or display or permit or cause the erection or display of an election sign on any division fence if the election sign is visible from any highway that is under the jurisdiction of the Town or the Region.

3.3 No person shall fail to remove, alter, or repair an election sign which is not in compliance with the provisions of this by-law when so directed by an Officer.

3.4 Every person using rebar, or any type of reinforcing steel or metal, shall ensure that all ends, not including the end inserted into the ground, has high visibility safety caps securely covering the ends of the steel or metal.

## 4. Election Sign Prohibitions

4.1. No person shall erect or display, or permit or cause the erection or display of an election sign:

(a) within or on a roadway, a roadway median, or a traffic island;

(b) in a public park or open space owned by the Town;

(c) on or in any Town-owned property, building, or structure and the adjacent boulevard;

(d) on any property containing a voting location, including the adjacent boulevard;

(e) that obstructs the vision of drivers or pedestrians when using a highway or boulevard, or that interferes with the visibility or effectiveness of traffic signs or signals serving a highway;

(f) that is illuminated or that contains lighting, flashing light(s), or animation;

(g) that simulates a traffic control device;

(h) that contains the Town’s logo, crest, or branding;

(i) 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

(j) that obstructs, blocks, or is within 0.3 metres of a sidewalk.

4.2. No person having a vehicle election sign shall park or stop the said vehicle in a way that violates the Town's "Use of Corporate Resources for Election Purposes Policy G 070".

## 5. Election Sign Standards

5.1 No person shall erect or display, or permit or cause the erection or display of an election sign:

(a) on private property without the permission or consent of the owner of the property;

(b) on a boulevard other than a boulevard that is within a Town-owned or Region-owned highway as shown on Schedule "A" to this by-law;

(c) that exceeds a maximum sign area of 1.2 square metres;

(d) that exceeds a maximum sign height of 1.2 metres if the election sign is erected a distance of 20 metres or greater from a roadway intersection;

(e) that exceeds a maximum sign height of 0.6 metres if the election sign is erected within a distance of 20 metres from a roadway intersection; or

(f) that is setback from the roadway curb less than 1.0 metre, or that is setback from the roadway less than 2.0 metres if there is no curb.

5.2 No person shall erect or display, or permit or cause the erection or display of an election sign more than 42 days prior to the last day of voting for a municipal election.

5.3 No person shall erect or display, or permit or cause the erection or display of an election sign prior to the day that the writ of election is issued for a provincial or federal election.

5.4 A candidate or registered third party advertiser in a provincial or federal election shall not erect or display, or permit or cause the erection or display of an election sign on a boulevard within 250 metres of another boulevard election sign for the same candidate or registered third party advertiser.

5.5 A candidate or registered third party advertiser in a municipal election shall not erect or display, or permit or cause the erection or display of an

election sign on a boulevard within 500 metres of another boulevard election sign for the same candidate or registered third party advertiser.

5.6 All election signs must be removed from property by the private property owner or the candidate who erected or displayed, or permitted or caused the erection or display of an election sign, no later than seven days after the last voting day for the election.

## 6. Enforcement and Penalties

6.1 When an election sign is erected on or overhanging property owned by or under the jurisdiction of the Town, in contravention of this by-law, the election sign may be removed by an Officer without notice.

6.2 When an election sign is erected on private property in contravention of this by-law, an Officer may forward a notice, by personal service, email, or regular post, to the registered owner of the property, or to the lessee, or to the owner of the election sign, or their agents, or to the person or agent having the use or the major benefit of the election sign, requiring that the election sign be removed within the time specified in the notice and thereafter not replaced with any election sign in contravention of this by-law or to alter the sign to comply with the by-law.

6.3 If a notice is not complied with, an Officer may require Town employees, or an independent contractor, to enter onto private property or any other land and remove an election sign at the expense of the owner thereof, the person who permitted or caused the election sign to be erected, or by the owner of the land on which it is situated. The Town and its agents shall not be liable to compensate such owner or other person having an interest in the election sign for reason of anything done by or on behalf of the Town under the provisions of this by-law.

6.4 The Town may recover any expense incurred pursuant to sections 6.1 or 6.3 of this by-law by adding the expense to the tax roll and collecting it in the same manner as taxes.

6.5 An unlawful election sign which has been removed in accordance with this by-law shall be kept by the Town for a minimum period of 30 calendar days, during which time the Town shall restore possession of the election sign to the election sign owner upon the Town's receipt of payment of the actual cost incurred by the Town for the removal of the unlawful election sign based on labour and equipment, it being understood that the minimum cost shall be $50.00.

6.6 All unclaimed election signs that have been removed by the Town shall become property of the Town if they are not claimed within 30 calendar days of its removal.

6.7 Any person who contravenes any provision of this by-law is guilty of an offence and on conviction is liable to a fine or penalty for each offence, exclusive of costs, as prescribed by the Provincial Offences Act, R.S.O. 1990, c. P.33, as amended.

## 7. Schedules

7.1 The following Schedule(s) shall form part of this by-law:

**Schedule "A"** – Maps of Town-owned and Region-owned Highways where Election Signs are permitted on the Boulevard

## 8. Short Title

8.1 This by-law may be cited as the "Election Sign By-law".

## 9. Effective Date

9.1 This by-law shall come into force and effect on the date of passing.

By-law read and passed this 17th day of May, 2021.

Original Approved and Signed.

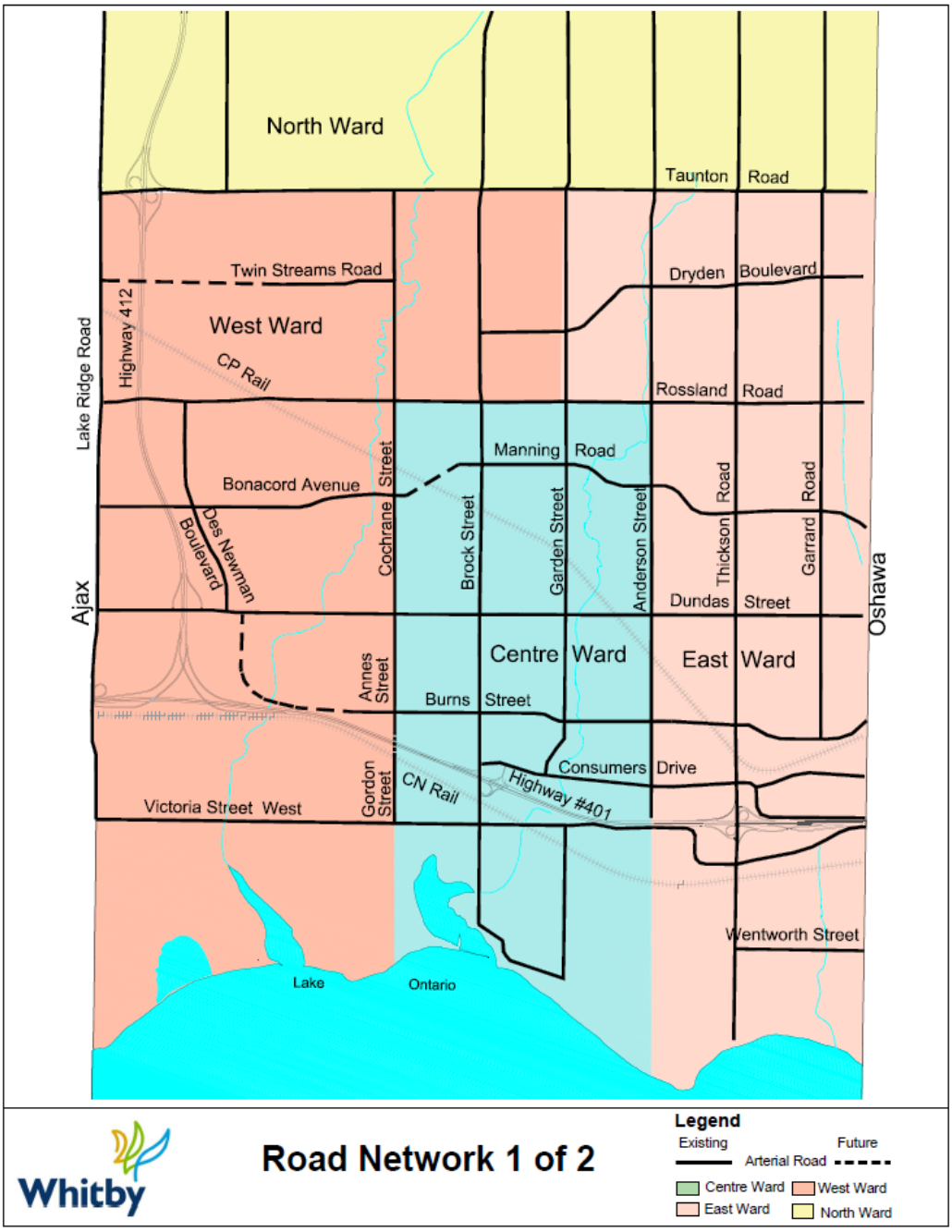
Don Mitchell, Mayor

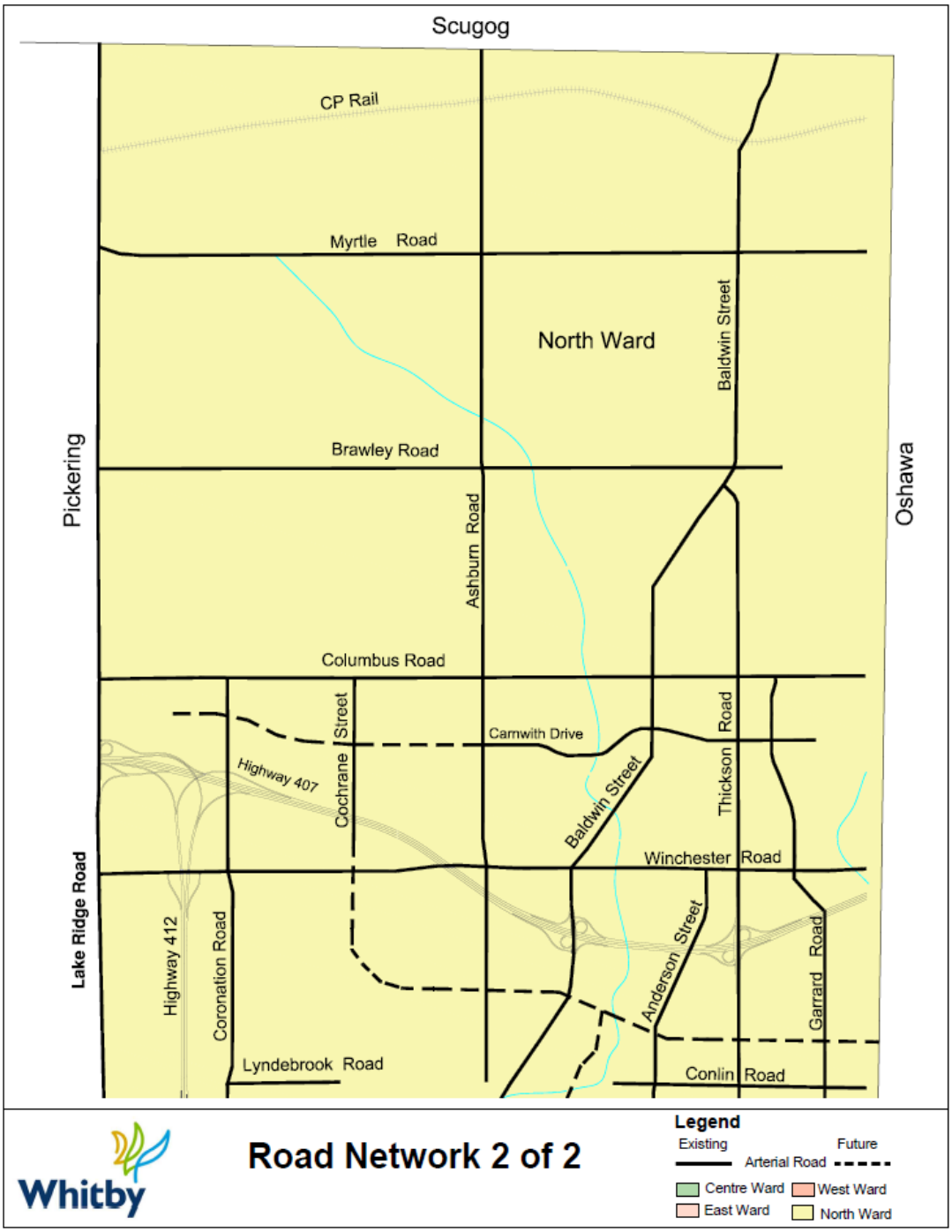
Original Approved and Signed.

Christopher Harris, Town Clerk

**Schedule "A"**

Maps of Town-owned and Region-owned Highways where Election Signs are permitted on the Boulevard




Scugog
CP Rail
Myrtle Road
North Ward
Baldwin Street
Brawley Road
Pickering
Oshawa
Ashburn Road
Columbus Road
Cochrane Street
Carnwith Drive
Thickson Road
Highway 407
Baldwin Street
Winchester Road
Lake Ridge Road
Highway 412
Coronation Road
Anderson Street
Garrard Road
Lyndebrook Road
Conlin Road
Whitby
Road Network 2 of 2
Legend
Existing
Future
Arterial Road
Centre Ward
West Ward
East Ward
North Ward