

CORPORATION OF THE MUNICIPALITY OF STRATHROY-CARADOC

BYLAW 69-17

A BYLAW TO AUTHORIZE ENTRY UPON ADJOINING LANDS FOR THE PURPOSE OF MAKING REPAIRS OR ALTERATIONS TO EXISTING BUILDINGS, FENCES OR OTHER STRUCTURES

WHEREAS Section 132 of the Municipal Act, 2001, provides that “a local municipality may authorize the owner or occupant of land to enter adjoining land, at any reasonable time, for the purpose of making repairs or alterations to any building, fence or other structures on the land of the owner or occupant but, only to the extent necessary to carry out the repairs or alterations”.

AND WHEREAS under Section 436 of the Act, the Municipality may pass bylaws providing that the Municipality may enter on land at any reasonable time for the purpose of carrying out an inspection to determine whether or not a bylaw passed under the Act, and a direction or order of the Town made under the Act or a bylaw passed under the Act, are being complied with;

AND WHEREAS under Section 446 of the Act, if the Municipality has authority by bylaw or otherwise under an Act to direct or require a person to do a matter or thing, the Town may also provide that, in default of it being done by the person directed or required to do it, the matter or thing shall be done at the person’s expense, and the Municipality may recover the costs of doing it by action, or the costs may be added to the tax roll and collected in the same manner as property taxes;

AND WHEREAS under Section 426 of the Act no person shall hinder or obstruct, or attempt to hinder or obstruct, any person exercising a power or performing a duty under this Act or under a bylaw passed under this Act and any person who contravenes this provision is guilty of an offence;

AND WHEREAS under Section 391 of the Act, the Municipality may pass a bylaw imposing fees or charges on persons for services and activities provided or done by or on behalf of it; and

NOW THEREFORE THE COUNCIL OF THE MUNICIPALITY OF STRATHROY-CARADOC, ENACTS AS FOLLOWS:

1. SHORT TITLE:

1.1 This bylaw may be cited as the “Right of Entry Bylaw”.

2. DEFINITIONS:

2.1 In this bylaw,

“alteration” includes, for example, but is not limited to, a structural change to the interior or exterior of an existing building, fence or other structure, but does not include a total replacement of an existing building, fence or other structure.

“applicant” means the owner or occupant of a building or property who applies for a permit, or any person authorized by the owner or occupant to apply for a permit on the owner’s or occupant’s behalf.

“building” has the same meaning as in Section 1 of the Building Code Act, 1992, c. 23 [this meaning is noted as follows for reference purposes only]:

- a. a structure occupying an area greater than 10 square metres consisting of a wall, roof and floor or any of them or a structural system serving the function thereof including all plumbing, works, fixtures and service systems appurtenant thereto;
- b. a structure occupying an area of 10 square metres or less that contains plumbing, including the plumbing appurtenant thereto;
- c. plumbing not located in a structure;
- d. a sewage system; or
- e. structures designated in the building code.

“business day” shall mean a day when municipal offices are open during its regular hours of business, other than a Saturday or a Sunday or other holiday.

“Chief Building Official” means the Chief Building Official of the Municipality of Strathroy-Caradoc or his/her designate for the purposes of this bylaw.

“Council” means the Council of the Municipality of Strathroy-Caradoc

“high-impact work” means a repair or alteration that requires entry on the adjoining land for the erection or temporary structures, such as scaffolding; the placement of, or access for, any type of heavy equipment; or the distressing of the adjoining land, including the removal of a structure or fence, or the excavation or removal of any landscaping or paving.

“land” includes buildings.

“low impact work” means a repair or alteration that requires entry on the adjoining land to carry out work that does not include the erection or temporary structure, such as scaffolding; the placement of, or access for, any type of heavy equipment; and the distressing of the adjoining land, including the removal of a structure or fence, or the excavation or removal of any landscaping or paving.

“municipality” means the Corporation of the Municipality of Strathroy-Caradoc

“officer” means a police officer or bylaw enforcement officer.

“owner” when used in relation to the land where the work is to be done means the registered owner of the land or a person authorized in writing by the registered owner of the land to act on the owner’s behalf for the purposes of filing an application under this bylaw

“permit” means written permission or authorization issued under this bylaw that authorizes right of entry on adjoining lands.

“reasonable notice” means written notice that is provided to the owner or occupant of adjoining land at least forty-eight hours in advance of the entry, and specifies the reason for the entry, and the day and time of the proposed entry.

3. Interpretation:

- 3.1 In this bylaw, a word interpreted in the singular number has a corresponding meaning when used in the plural,
- 3.2 It is declared that if any section, subsection or part or parts thereof be declared by any Court of Law to be bad, illegal or ultra vires, such section, subsection or part or parts shall be deemed to be severable and all parts hereof are declared to be separate and independent and enacted as such.

4. Application for a Permit:

- 4.1 To obtain a permit, the owner shall file with the Chief Building Official an application for permit, in writing, on the prescribed form.
- 4.2 The applicant shall:
 - a. identify and describe in detail the work to be covered by the permit for which an application is made
 - b. describe the land on which the work is to be done, by a description that will readily identify and locate the building lot as well as the adjoining premises
 - c. state the names, addresses and telephone numbers of the owner, his or her agent(s), and the individual(s) or contractor(s) performing the work
 - d. state the address of the adjoining property upon which permission to enter is sought;
 - e. be accompanied by the permit fee as prescribed or as otherwise prescribed under the fees and service charges bylaw of the municipality
 - f. be accompanied by the deposit in cash as deemed necessary by the Chief Building Official
 - g. be accompanied by the prescribed Certificate of Insurance
 - h. be accompanied by the prescribed Declaration of Responsibility; and
 - i. where the applicant is not the owner, be accompanied by written authorization of the owner.
- 4.3 The Chief Building Official shall establish the amount of the deposit, as deemed

necessary by the Chief Building Official, which, in his or her opinion, shall be sufficient to pay for the cost of restoring the adjoining land or adjacent building, fence or structure to the same condition it was prior to entry.

- 4.4 The Town shall retain the deposit made under subsection 4.3 until the applicant has restored the adjoining land or adjacent building, fence or other structure to the satisfaction of the Chief Building Official.
- 4.5 A permit issued under this bylaw shall be valid for a period not exceeding two (2) weeks from the date of issue thereof; provided however, that the Chief Building Official may renew the permit for a further period of time not exceeding a combined period of (2) months upon the payment of ten dollars (\$10.00) per renewal fee.
- 4.6 If the applicant fails to do such restoration, repairs or alterations to the satisfaction of the Chief Building Official, then within third (3) days of providing written notice of such failure to the applicant, the deposit shall be forfeited and paid by the Municipality to the owner or authorized agent of the owner of the land entered.
- 4.7 The fee for a right-of-entry permit shall be fifty dollars (\$50.00), which is non-refundable.

5. Conditions of Permit Issuance

- 5.1 A right-of-entry permit shall be issued on the conditions that:
 - a. the repairs or alterations to an existing building, fence or other structure are made only to the extent necessary to effect such repairs or alterations
 - b. the adjoining land is left in the same condition as it was in, prior to entry
 - c. the entry is only for the days and hours of work specified in the permit
 - d. the power of entry is only exercised by the owner or his or her employees or agents
 - e. the person exercising the power of entry displays or produces proper identification on request
 - f. the owner provides reasonable notice as prescribed by the Municipality of the proposed entry to the owner or authorized agent of the owner of adjoining land,
 - i. Acceptable "reasonable notice" means a copy of the permit issued under this bylaw shall be served by the applicant upon the owner and occupant of the adjoining land to be entered, not later than seven (7) days preceding the date of entry. The said permit shall be sufficiently served upon the owner or occupant if left for him with an adult person appearing to be in charge of the premises, or in case no such adult person can be found at such address, then the permit shall be sufficiently served if forwarded by prepaid registered mail to the party to be served at the said premises. Provided, however, that where the owner and occupant are not one and the same person, and the owner cannot be located, then service upon the occupant alone shall be

sufficient for the purposes of this bylaw where the applicant furnishes the Chief Building Official with proof that he has made a reasonable attempt to serve the owner without success.

- ii. Notwithstanding the provisions of subsection (i) of this section, if the applicant has not been able to effect services in accordance with the said provisions of subsection (a) of this section, the applicant may effect such services upon the owner and occupancy by forwarding the permit by prepaid registered mail, and the applicant shall furnish proof satisfactory to the Chief Building Official that he has made such services by prepaid registered mail.

5.2 No permit holder shall fail to comply with the conditions set out in subsection (5.1).

5.3 No permit shall be issued under this bylaw, unless the Chief Building Official has caused an inspection to be made of the fence, building or other structure to be repaired or altered, and of the land to be entered, and has been satisfied that entry upon the adjoining land is necessary for the purposes of making repairs or alterations.

5.4 If adjoining land is damaged by the entry or by anything done on the land as a result of the entry, the owner or occupant shall restore the land as close to its original condition in so far as is practicable, and shall provide compensation for any damage caused by the entry or anything done to the adjoining lands.

5.5 No person entering upon adjoining land pursuant to a permit issued under this bylaw shall fail to leave the land in the same condition as it was in, prior to the entry and to provide compensation for any damage caused by the entry or anything done to the adjoining land.

5.6 No person shall fail to permit a right-of-entry permit holder to enter and repair or alter in accordance with the provisions of this permit.

5.7 No person shall fail to permit the Chief Building Official to enter upon the land for the purposes of carrying out an inspection to administer and enforce this bylaw.

6. Offences and Penalties

6.1 Every person who contravenes any provision of this bylaw is guilty of an offence and if convicted on an offence under this bylaw, is liable to a fine as provided for in the Provincial Offences Act, R.S.O. 1990, Chap. P. 33, as amended.

6.2 If this bylaw is contravened and a conviction is entered, the Ontario Court of justice or any court of competent jurisdiction after, may, in addition to any penalty imposed on the person convicted, issue an Order prohibiting the continuation or repetition of the offence by the person convicted.

7. Effective Date

This Bylaw shall come into full force and effect on the date of final passage
In Open Council.

**Read a First, Second and Third time and Finally passed in Open Council this 6th
day of November, 2017.**



Mayor



Clerk