CORPORATION OF THE MUNICIPALITY OF STRATHROY-CARADOC

BYLAW NO. 22-15

A BYLAW TO REGULATE AND PROHIBIT SMOKING NEAR MUNICIPALLY-OWNED BUILDINGS

WHEREAS subsection 5(3) of the Municipal Act, S.O. 2001, c. 25, as amended (Municipal Act) provides that a municipal power shall be exercised by bylaw;

AND WHEREAS Section 9 of the Municipal Act provides that a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under this or any other Act;

AND WHEREAS subsection 10(1) of the Municipal Act provides that a municipality may provide any service or thing that the municipality considers necessary or desirable for the public;

AND WHEREAS subsection 10(2) of the Municipal Act provides that a municipality may pass bylaws respecting: in paragraph 4, public assets of the municipality acquired for the purpose of exercising its authority; in paragraph 5, economic, social and environmental well-being of the municipality; in paragraph 6, health, safety and well-being of persons; in paragraph 7, services and things that the municipality is authorized to provide under subsection (1); and in paragraph 8, protection of persons and property;

AND WHEREAS subsection 115(1) of the Municipal Act provides that a municipality may prohibit or regulate smoking of tobacco in public places and workplaces;

AND WHEREAS subsection 115(3) of the Municipal Act provides that section 115 shall not apply to a highway;

AND WHEREAS it has been determined that restrictions on smoking in public spaces can have a protective effect on smoking uptake among children, youth and young adults, and supports those who are currently addicted to tobacco trying to quit;

AND WHEREAS the Corporation of the Municipality of Strathroy-Caradoc considers it desirable for the public to prohibit smoking of tobacco as set out in this bylaw;

AND WHEREAS it is deemed expedient to pass this bylaw;

NOW THEREFORE the Council of the Corporation of the Municipality of Strathroy-Caradoc hereby enacts as follows:
1.0 DEFINITIONS

1.1 For the purpose of this by-law:

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

“Municipal Building” means buildings owned by the Municipality.

“Roadway” means property line to property line.

“Enforcement Officer” means a person appointed by the Middlesex-London Board of Health to enforce this by-law or any person appointed by Municipal Council to enforce this by-law or any police officer of the Strathroy-Caradoc Police Service;

2.0 PROHIBITIONS

2.1 No person shall smoke tobacco or hold lighted tobacco within twenty (20) metres of any Municipally-Owned Building.

2.2 The application of section 2.1 is not affected by the absence or presence of signage with respect to smoking tobacco or holding lighted tobacco.

3.0 EXCEPTIONS

3.1 This by-law does not apply to the smoking of tobacco on a highway or roadway.

3.2 This by-law does not prohibit an Aboriginal person from smoking tobacco or holding lighted tobacco, if the activity is carried out for traditional Aboriginal cultural or spiritual purposes.

3.3 This by-law does not prohibit a non-Aboriginal person from smoking tobacco or holding lighted tobacco, if the activity is carried out with an Aboriginal person and for traditional Aboriginal cultural or spiritual purposes.

4.0 ENFORCEMENT

4.1 This by-law may be enforced by an Enforcement Officer.

4.2 No person shall hinder or obstruct, or attempt to hinder or obstruct, any person who is exercising a power or performing a duty under this by-law.
4.3  (a) Where any person contravenes this by-law, such person is subject to the provisions of the *Trespass to Property Act*.
(b) An Enforcement Officer, any Director or Manager of the Municipality, Fire Services, or their written designates, may order a person believed to be in contravention of this by-law to:
   (i) cease the activity that is in contravention of the by-law; and/or
   (ii) leave the premises.

5.0 PENALTY

5.1 Every person who contravenes any provision of this bylaw is guilty of an offence and upon conviction is liable to a fine as provided for by the *Provincial Offences Act*, R.S.O. 1990, Chapter P. 33, as amended.

5.2 If this by-law is contravened and a conviction entered, in addition to any other remedy and to any penalty imposed by the by-law, the court in which the conviction has been entered and any court of competent jurisdiction thereafter may make an order,
   (a) prohibiting the continuation or repetition of the offence by the person convicted; and
   (b) requiring the person convicted to correct the contravention in the manner and within the period that the court considers appropriate.

6.0 CONFLICTS

6.1 If a provision of this by-law conflict with an Act or a regulation or another by-law, the provision that is the most restrictive of smoking shall prevail.

7.0 SEVERABILITY

7.1 If any section or sections of this by-law or parts thereof are found in any court of law to be illegal or beyond the power of Council to enact, such section or sections or parts thereof shall be deemed to be severable and all other sections or parts of this by-law shall be deemed to be separate and independent there from and to be enacted as such.

8.0 SHORT TITLE

This bylaw may be referred to as the “Prohibit Smoking Near Municipally-Owned Buildings Bylaw”
9.0 EFFECTIVE DATE

This bylaw shall come into force and effect on the date of its final passing.

READ A FIRST, SECOND AND THIRD TIME AND FINALLY PASSED IN OPEN COUNCIL THIS 7th DAY OF APRIL, 2015.

Mayor

Clerk
CORPORATION OF THE MUNICIPALITY OF STRATHROY-CARADOC
Set Fine Schedule - Part 1 Provincial Offences Act
Bylaw No. 22-15
To prohibit and regulate smoking near Municipally Owned Buildings
within the Municipality of Strathroy-Caradoc

<table>
<thead>
<tr>
<th>Item</th>
<th>COLUMN 1 Short Form Wording</th>
<th>COLUMN 2 Provision Creating or Defining Offence</th>
<th>COLUMN 3 Set Fine</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Smoking or holding lighted tobacco within 20m of a Municipally owned building</td>
<td>Section 2.1</td>
<td>100.00</td>
</tr>
</tbody>
</table>

The general penalty provision for the offences listed above is Section 5.0 of Bylaw 22-15 a certified copy of which has been filed and Section 61 of the Provincial Offenses Act, R.S.O. 1990, Chapter P 33.