

CORPORATION OF THE MUNICIPALITY OF STRATHROY-CARADOC

BY-LAW NO. 92-18

**A BY-LAW TO REGULATE AND PROHIBIT SMOKING ON CERTAIN LANDS
WITHIN THE MUNICIPALITY OF STRATHROY-CARADOC**

WHEREAS the *Municipal Act*, 2001, c. 25, s. 8 confers broad authority on the municipality to enable the municipality to govern its affairs as it considers appropriate and to enhance the municipality's ability to respond to municipal issues;

AND WHEREAS the *Municipal Act*, S.O. 2001, c. 25, s. 11 provides a municipality with authority to pass by-laws respecting public assets of the municipality acquired for the purpose of exercising its authority and the economic, social and environmental well-being of the municipality, as well as the health, safety and well being of persons, services and things the municipality is authorized to provide including the protection of persons and property;

AND WHEREAS the *Municipal Act*, S.O. 2001, c. 25, s. 115 provides that without limiting Section 11, a municipality may prohibit or regulate smoking in public places and a municipality may define a "public place" for the purpose of this by-law;

AND WHEREAS the *Smoke-Free Ontario Act*, 2017 received Royal Assent on December 12, 2017 and contains rules respecting the smoking of medical cannabis, as well as smoking in public and the workplace;

AND WHEREAS rules respecting the consumption of recreational cannabis are currently included in the Government of Ontario's *Cannabis Act* 2017 (not yet in force);

AND WHEREAS the *Smoke Free Ontario Act* 2017 prohibits smoking or vaping in any enclosed workplace, any enclosed public place and any other place designated as smoke-free and vape-free;

AND WHEREAS it has been determined that smoking tobacco or tobacco-like products is a health hazard because of, among other things, the creation of second hand smoke, which has adverse effects on the health of the inhabitants residing in or visiting the Municipality of Strathroy-Caradoc;

AND WHEREAS it is desirable for the health, safety and well-being of the inhabitants of the Municipality of Strathroy-Caradoc to prohibit smoking to protect persons from conditions hazardous to their health pursuant to the provisions of this by-law;

AND WHEREAS the Municipality of Strathroy-Caradoc maintains policies and practices governing substance use in the workplace and impairment while at work.

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

Short Title

This by-law may be cited as the "Smoke Free Strathroy-Caradoc By-law"

Part I

Definitions

1. In this by-law:

"Cannabis" has the same meaning as in subsection 2 (1) of the *Cannabis Act* (Canada), or successor statutes. A court may infer that any substance in question is cannabis from the fact that a witness describes it as cannabis or by a name that is commonly applied to cannabis;

"Council" means the Council of the Municipality of Strathroy-Caradoc;

"Municipality" means the Corporation of the Municipality of Strathroy-Caradoc;

"Municipal Facility" means any building, structure, land or premises to which the Municipality holds a right of ownership, and includes a building, structure, parking lot or premises which is leased by or from the Municipality;

"Enclosed Public Space" means the inside of any place, building, structure, vehicle, conveyance or a part of any of them,

(i) that is covered by a roof, and

(ii) to which the public is ordinarily invited or permitted access, either expressly or by implication, regardless of whether a fee is charged for entry.

"Enforcement Officer" means a police officer or a provincial offences officer as defined in section 1(1) of the Provincial Offences Act, R.S.O. 1990, c. P.33. or successor statutes;

"Highway" includes a common and public highway, street, avenue, parkway, driveway, square, place, bridge, viaduct or trestle, any part of which is intended for or used by the general public for the passage of vehicles and includes the area between the lateral property lines thereof;

"Outdoors" means any open space which is outside of a facility, building, structure, premise including any temporary building, structure, parkland or part thereof, whether covered by a roof or not;

"Person" includes an individual or corporation and shall include the plural where the context requires. Wherever the word "he" or "him" is used, it shall mean and include the feminine or neutral gender wherever the context so requires;

"Playground Equipment" means a structure intended for children's play and shall include but is not limited to a splash pad;

"Property" means lands which belong exclusively to the Municipality and to which legal rights apply and includes a building, parkland, greenspace, structure or premise which is leased by the Municipality to another party;

"Smoke" or **"Smoking"** includes using or carrying, inhaling, exhaling, vaping, burning or heating of material of an organic origin including, but not limited to, smokeless and chewing tobacco, dip, snuff, tobacco, cannabis and cannabis cigars, cigarettes, pipes, water pipes, or any other equipment used to inhale, exhale, burn, vaporize or heat any Smoking Product;

"Smoking Product" means tobacco, cannabis, vaping juice or similar product derivative whose primary purpose is to be burned or heated to produce vapours, gases, or smoke, which are inhaled, and shall include but is not limited to non-tobacco herbal shisha, and other plant material, liquids or oils intended for inhalation;

"Sports Field" any field and/or land of natural and/or man-made composition that is used for athletic purposes to conduct organized or unorganized sporting activities, which includes but is not limited to a baseball field, soccer pitch, player or spectator bench, ice rink, lawn bowling field and off leash dog park;

"Vaping" means inhaling or exhaling vapour from an electronic cigarette (e-cigarette) or holding an activated e-cigarette, regardless of whether the vapour contains nicotine;

"Walkways" means an area of land designated or designed specifically for the passage of pedestrians and shall include a pathway but shall not include a Highway;

"Waterpipe" means a device in which the vapours, gases, or smoke of a Smoking Product passes through liquid prior to being inhaled, and shall include but is not limited to a bong or hookah.

Part II

General Prohibitions for Public Places

General Prohibition

2. (1) Regardless of whether a "No Smoking" sign is posted, no person shall smoke in:
 - a) an Enclosed Public Place;
 - b) Outdoors on municipal Property, including but not limited to parklands and playgrounds;

- c) Outdoors within, around or on a Sports Field;
- d) Outdoors on any land containing Playground Equipment, except for privately owned land, which contains a Single Detached Dwelling as defined under the Corporation of the Municipality of Strathroy-Caradoc Zoning By-law;
- e) Outdoors within nine (9 m) metres of any entrance to a Municipal Facility;
- f) Outdoors within four (4 m) metres of any Municipal parking lot; or
- g) a prescribed place listed in Schedule A of this by-law.

Part III

Exemptions

4. (1) Notwithstanding Section 2, such prohibition of Smoking shall not apply to:
- (a) a Highway, including a pedestrian sidewalk adjacent to the Highway;
 - (b) a four (4m) metre radius of the front door of a Mobile Home or Travel Trailer within a Lease Park; and
- (2) the exemption provided under 4(1) (a) does not apply to a public transportation vehicle or a taxicab.

Cannabis for medical purposes

(3) this by-law does not apply with respect to the sale, distribution, purchase or attempt to purchase, possess, consume, offer to cultivate or cultivation, offering to propagate or propagation or offering to harvest or harvesting of cannabis for medical purposes in accordance with the *Cannabis Regulations* (Canada) or in accordance with a court order, or to cannabis produced or obtained for medical purposes in accordance with such authority.

Cannabis for research and educational purposes

(4) this by-law does not prevent the distribution, possession or consumption of cannabis for research or educational purposes in the prescribed circumstances.

Cannabis supply chain

(5) this by-law does not apply to prescribed activities relating to cannabis that are undertaken by or on behalf of prescribed persons acting under the *Cannabis Act* (Canada) or in connection with the *Ontario Cannabis Retail Corporation Act, 2017* or the *Cannabis License Act, 2018*.

(6) 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.

Part IV

General

Offences

5. (1) Every Person who contravenes any of the provisions of this by-law is guilty of an offence.

(2) A director or officer of a corporation has a duty to take all reasonable care to prevent the corporation from contravening this by-law.

Penalty

6. (1) Every Person who is convicted of an offence under any provision of this by-law shall be liable to a penalty of \$1,000.00 as permitted by the *Provincial Offences Act*, R.S.O. 1990, C. P. 33, or any successor thereof.

(2) Where a corporation is convicted of an offence under this by-law, the maximum penalty that may be imposed on the corporation is \$10,000.00.

(3) A person who has the duty imposed by section 5(2) and fails to carry it out is guilty of an offence and upon conviction is liable to a fine of not more than \$2,500.00.

Continuation - repetition - prohibited - by order

7. The court in which the conviction has been entered, and any court of competent jurisdiction thereafter, may make an order prohibiting the continuation or repetition of the offence by the person convicted, and such order shall be in addition to any other penalty imposed on the person convicted.

Enforcement

8. Any provision of this by-law may be enforced by an Enforcement Officer or other persons deemed to be an agent of the Municipality.

Obstruction

9. Every person who hinders or obstructs, or attempts to hinder or obstruct, an Enforcement Officer lawfully carrying out the enforcement of this by-law is guilty of an offence.

Conflicts

10. If a provision of this by-law conflicts with an Act, a regulation or another by-law, the provision that is the most restrictive on Smoking shall prevail.

Severability

11. If any section or sections of this by-law or parts thereof are found in any court of law to be *ultra vires* by the Municipality, such section or sections or parts thereof shall be deemed to be severed and all other sections or parts of this by-law shall remain in full force and effect.

Repeals

12. The following by-laws are hereby repealed: By-law # 22-15.

Commencement

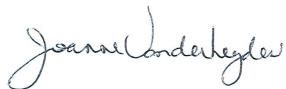
13. This by-law shall come into effect on January 1, 2019

First Reading –

Second Reading –

Third Reading –

PASSED in Open Council on the 17th day of December, 2018.

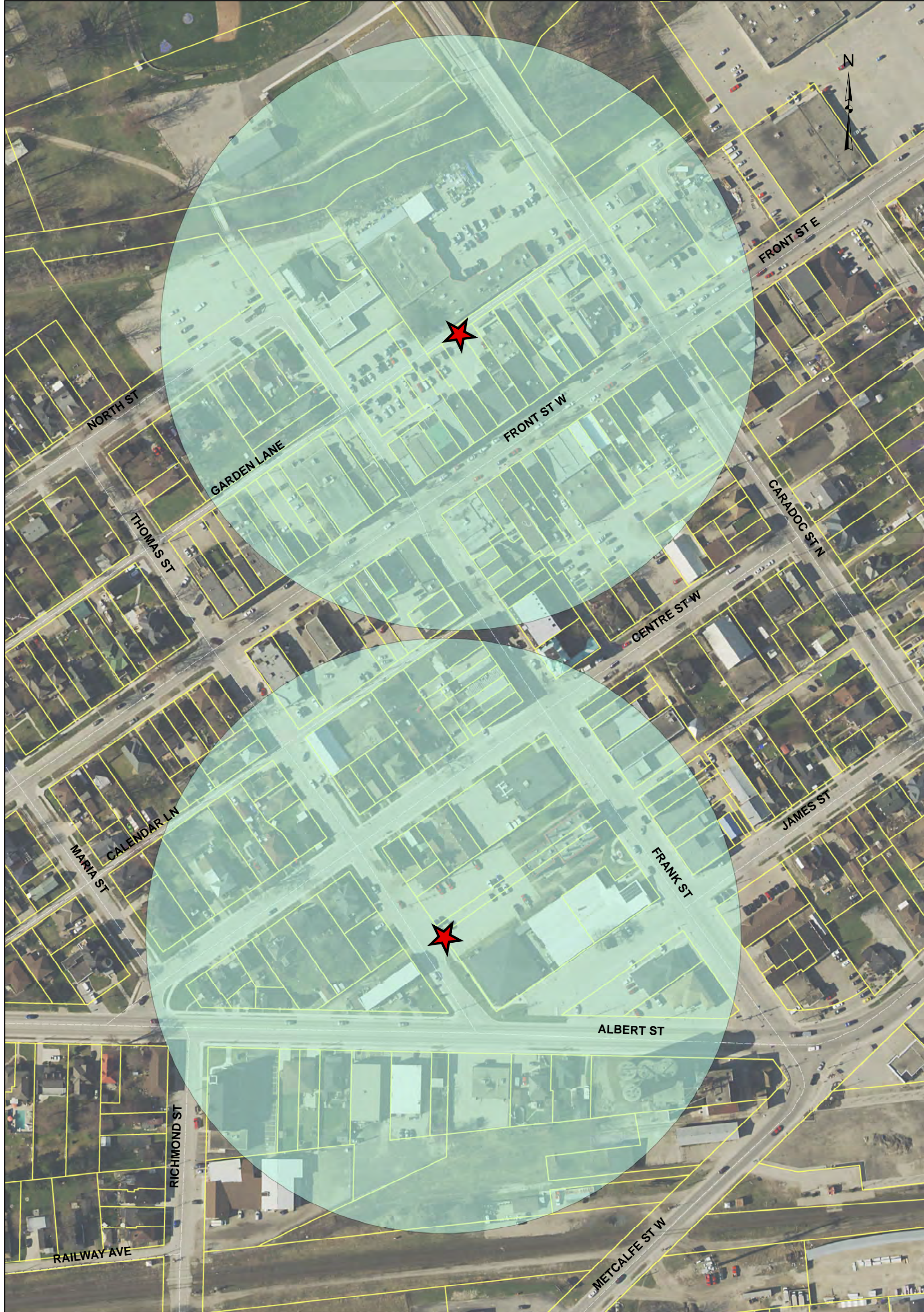


Joanne Vanderheyden

Mayor



Fred W. Tranquilli
Clerk



Schedule 'A'
Strathroy's Municipal Parking Lots
150 m Buffer Zone



CORPORATION OF THE MUNICIPALITY OF STRATHROY-CARADOC
Set Fine Schedule – Part 1 Provincial Offences Act
By-law 92-18
To regulate and prohibit smoking on certain lands within the
Municipality of Strathroy- Caradoc

| Item | COLUMN 1 Short Form Wording | COLUMN 2 Provision Creating or Defining Offence | COLUMN 3 Set Fine |
|-------------|---|--|------------------------------|
| 1 | Smoking in an Enclosed Public Place | Section 2(1) a. | \$205.00 |
| 2 | Smoking Outdoors on Municipal Property – Parklands and Playgrounds | Section 2(1) b. | \$205.00 |
| 3 | Smoking Outdoors within/around/on Sports Field | Section 2(1) c. | \$205.00 |
| 4 | Outdoors on any land containing Playground Equipment | Section 2(1) d. | \$205.00 |
| 5 | Outdoors within 9m (metres) of any entrance to a Municipal Facility | Section 2(1) e. | \$205.00 |
| 6 | Outdoors within 4m (metres) of any Municipal Parking Lot | Section 2(1) f. | \$205.00 |

The general provision for the offences listed above is Section 6 of By-law 92-18 a certified copy of which has been filed and Section 61 of the *Provincial Offences Act*, R.S.O. 1990, Chapter P.33.