

THE CORPORATION OF THE MUNICIPALITY OF STRATHROY-CARADOC

BY-LAW NO. 45-21

**A BY-LAW TO REGULATE THE USE OF THE MUNICIPAL RIGHT OF WAY IN
THE MUNICIPALITY OF STRATHROY-CARADOC**

WHEREAS Section 11(3)1 of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, authorizes a municipality to pass by-laws respecting highways;

AND WHEREAS Section 27(1) of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, states that a municipality may pass by-laws in respect of a highway only if it has jurisdiction over the highway;

AND WHEREAS Section 35 of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, states that a municipality may pass by-laws removing or restricting the common law right of passage by the public over a highway and the common law right of access to the highway by an owner of land abutting a highway;

AND WHEREAS Section 128 of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, provides that a local municipality may prohibit and regulate with respect to public nuisances, including matters that, in the opinion of Council are or could become or cause public nuisances;

AND WHEREAS Section 425 of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, provides that a municipality may pass by-laws providing that a person who contravenes a by-law of the municipality is guilty of an offence;

AND WHEREAS Section 436 of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, provides that a municipality has the power to pass by-laws 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 by-law of the municipality is being complied with;

AND WHEREAS Section 446 (1) of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended, the municipality has the authority under this or any other Act or under a by-law to direct or require a person to do a matter or thing, the municipality 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 WHEREAS Section 446 (3) of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, provides that the municipality may recover the costs of doing a matter or thing under subsection (1) from the person directed or required to do it by

action or by adding the costs to the tax roll and collecting them in the same manner as property taxes;

AND WHEREAS Section 446 (5) of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, the costs include interest calculated at a rate of 15 per cent per annum or such lesser rate as may be determined by the municipality, calculated for the period commencing on the day the municipality incurs the costs and ending on the day the costs, including the interest, are paid in full;

AND WHEREAS the *Ontario Police Services Act*, R.S.O. 1990, C. P15, as amended, provides that Council may appoint Municipal By-Law Enforcement Officers to enforce all municipal by-laws; and

AND WHEREAS the *Provincial Offences Act*, R.S.O. 1990, c. P.33, s.61, as amended, every person who is convicted of an offence is liable to a fine of not more than \$5,000.

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

1. DEFINITIONS

"**Boulevard**" means all parts of a municipal right of way save and except the roadway, shoulder and/or walkway;

"**Cleared**" means the removal of weeds or grass more than 6 inches in height;

"**Designate**" means an authority or position next in line to the Director;

"**Driveway**" means an access within a municipal right of way facilitating or supporting vehicular travel (continuous, intermittent or temporary) between the roadway and a private property;

"**Director**" means the Director of Engineering and Public Works or their designate/officer;

"**License**" means a license or permit issued granting permission to do work approved by the Municipality of Strathroy-Caradoc, County of Middlesex, Ministry of Transportation, or the jurisdiction with authority to grant approval;

"**Municipal Right of Way**" means land owned by The Corporation of the Municipality of Strathroy-Caradoc as opened or unopened road allowances for the purposes of operating a public highway under the *Municipal Act, 2001*, a public walkway, municipal services or public utilities, but excludes Municipal lands owned or operated as parkland, creeks and watercourse, and related public trail systems;

"Municipality" means The Corporation of the Municipality of Strathroy-Caradoc or the geographic area as the context requires;

"Newspaper" shall include any publication containing news, current events, feature articles or advertising;

"Officer" means a Police Officer, By-law Enforcement Officer, Building Inspector or Chief Building Official as appointed by the Council of the Municipality;

"Owner" means the holder(s) of a legal title to property, or tenants residing at the property;

"Permitted Feature" means a building, structure, sign, tree, pole or any other item that was granted permission by the Municipality to be located on the municipal right of way;

"Person" shall include an individual, partnership, and corporation;

"Refuse" includes any unused or discarded material, thing or substance and, without limiting the generality of the foregoing, shall include debris, rubbish, junk, litter, discarded paper or paper products, unused or discarded materials of any kind, appliances, devices, apparatus, machinery, furniture, discarded clothing, construction materials, concrete, flagstone, gravel, asphalt, tires, unused motor vehicles, vehicles without license plates, objects or conditions that may create fire, health or safety hazards, dead animals, old or decayed lumber, decayed trees, discarded trees, parts of trees and leaves or discarded organic materials that are not part of a compost;

"Roadway" means that part of the municipal right of way that is improved, designed or ordinarily used for vehicular traffic;

"Settlement Area" means a settlement area as identified in the Municipality's Official Plan as amended;

"Walkway" means that part of a municipal right of way, outside of the roadway, set aside by the Municipality for the use of pedestrians;

"Vehicle" includes a motor vehicle, trailer, traction engine, farm tractor, road-building machine, bicycle and any vehicle drawn, propelled or driven by any kind of power, motorized snow vehicle, off road vehicle, including muscular power, but does not include a street car; and

"Yard Waste" Consists of vegetative or organic material produced from the care and maintenance or landscaped areas, gardens and lawns. This includes weeds,

leave, grass clippings, dead flowers and plants, brush, tree trunks, pruned branches and stems, dirt, roots, wood shavings, rocks and Christmas trees.

2. GENERAL PROVISIONS

- a) Prior to doing any work within a municipal right of way, every person shall obtain a Road Works Permit, upon submitting an application in a form provided by the Director, and shall pay the applicable fees under the Fees & Charges By-law and will comply with the terms and conditions.
- b) Prior to construction of a new entrance or modification of an existing entrance, every person shall obtain a Road Works Permit, upon submitting an application in a form provided by the Director, and shall pay the applicable fees under the Fees & Charges By-law and will comply with the terms and conditions.
- c) Urban Driveway entrances shall comply with specifications outlined in the municipality's Design Standards Manual and Figures, as updated from time to time.
- d) Rural Driveway entrances shall comply with specifications outlined in the municipality's Design Standards Manual and Figures, as updated from time to time.
- e) Every owner shall keep the land cleared on the municipal right of way adjacent to their property within a settlement area.
- f) No person shall construct a driveway which exceeds the grade/elevation of the asphalt at the edge of the roadway.

3. GENERAL PROHIBITIONS

No person shall, unless authorized by by-law, license or written permission provided by the Director:

- a) Place equipment, refuse, yard waste or materials of any kind upon or within a municipal right of way;
- b) Close a municipal right of way in whole or in part;
- c) Undertake any activity that negatively impacts the use and function of a municipal right of way;
- d) Deface or place graffiti on any permitted feature within a municipal right of way;

- e) Permit or cause oils, chemicals or substances to be deposited or spilled on a municipal right of way including spillage of any substances;
- f) Encumber or damage a municipal right of way by any means;
- g) Permit or cause any materials to be transferred from private property onto or across a municipal right of way within 75 metres of an intersection;
- h) Obstruct a drain, gutter, water course or culvert along or upon a municipal right of way;
- i) Place or throw any material, including snow and ice, onto a municipal right of way;
- j) Display or exhibit merchandise or articles of any nature kind within a municipal right of way;
- k) Solicit or sell any real or personal property or merchandise within a municipal right of way;
- l) Remove or alter any material, equipment or device placed within a municipal right of way by the Municipality;
- m) Permit any building or structure, clothing storage bins to be moved into a municipal right of way;
- n) Allow any box for the dispensing of newspapers or other consumer products on the municipal right of way;
- o) Install or construct a culvert within any municipal right of way;
- p) Construct, widen, remove or alter any driveway or curb cut within a municipal right of way;
- q) Allow any part of a tree, shrub, sapling, hedge or any other plant to extend over or upon any municipal right of way, so as to interfere with, impede or endanger persons using the municipal right of way;
- r) Construct, plant or maintain any form of garden or plant material within a municipal right of way;
- s) Permit or cause the discharge of water directly onto a municipal right of way;

- t) Congregate, sit or stand so as to obstruct the free passage of either pedestrian or vehicular traffic on any walkway or roadway regulated by this by-law;
- u) Pull down, destroy, deface or in any way interfere with, any municipal infrastructure, including but not limited to, any post, surveyor's mark, bench mark, traffic sign, roadway name sign, sign board, regulatory sign, traffic signal, traffic cone, or any other traffic control device, affixed or placed on a municipal right of way;
- v) Permit any flood light to directly or indirectly illuminate a municipal right of way that may cause a safety concern or nuisance;
- w) Bring a vehicle on a municipal right of way unless mud, clay, lime, fertilizer, manure or similar material has been removed to ensure an obstruction or dangerous condition or nuisance is not created;
- x) Load a vehicle as to permit or cause the contents thereof to fall, spill or be deposited upon or cause damage to a municipal right of way;
- y) Plant, grow, cultivate or maintain any crop on the municipal right of way;
- z) Permit an obstruction or fence as to interfere with a municipal right of way;
- aa) Attach any sign, handbill, poster, or item to any tree, hydro pole, traffic light or object located on the municipal right of way;
- bb) Cause or permit a fire on the municipal right of way;
- cc) Permit any plants, trees, hedges, shrubs, tall grass, fences, or pile rocks, snow or any material within two (2) metres of any fire hydrant;
- dd) Fail to keep land cleared on municipal right of way adjacent to property within a settlement area;
- ee) Remove or trim trees, in a way that may damage the tree, on municipal right of way;
- ff) Load or unload a farm tractor, trailer or other commercial vehicles on right of ways for the purpose of farm or commercial operations within 75 metres of an intersection;
- gg) Access properties at locations other than designated driveways;
- hh) Construct concrete or paving stone driveway less than 1.5 m from the edge of an abutting asphalt roadway with no curb.

4. EXEMPTIONS

- a) Notwithstanding Section 3 p) of this by-law, driveways within unassumed plans of subdivision may be constructed in accordance with the approved plans for that subdivision.
- b) Notwithstanding Sections 3 p) of this by-law, an owner of driveway is required and permitted to perform routine maintenance on the portion of their driveway within the municipal right of way to ensure it's in good working order and safe condition.
- c) The prohibitions contained in this by-law do not apply to an employee or an agent of the Municipality when engaged in the delivery of a municipal service.
- d) The prohibitions contained in this by-law do not apply to employee or agents of Emergency Medical Services, Strathroy-Caradoc Police Service, Ontario Provincial Police, Strathroy-Caradoc Fire Department and Strathroy-Caradoc employees who are acting within the scope of their duties.
- e) Utilities may be exempt from paying fees for a license, at the discretion of the Director.

5. TERMS AND CONDITIONS OF PERMITS

- a) Every person shall comply with the terms and conditions of a license issued by the Municipality in accordance with the Use of Municipal Right of Ways.

6. COST TO RESTORE LANDS – NOT REPAIRED AS SPECIFIED IN THE LICENSE

- a) Where the cost of repairing and restoring the municipal right of way exceeds any amount held on deposit or posted as security, the excess amount of the costs shall be a debt owing to the Municipality, and in addition to any other remedy available to it, the Municipality may recover the excess amount of the costs by action or by adding the excess amount of the costs to the tax roll of the license holder's lands and collecting them in the same manner as taxes.

7. NOTICE, RIGHT TO REPAIR & ADD TO TAXES

- a) If a person fails to comply with any provisions of this by-law, they shall be given notice in writing from the Director indicating the particulars of the

contravention, the location, required action to repair or restore and a specific time wherein compliance must be achieved. If the required action is not completed within the specified time frame, the Municipality may do the work or arrange for the work to be done and may recover all expenses, including administrative fees, from the person by action, or collect them in the same manner as municipal taxes.

- b) The notice in Section 7 a) may be given by personal service or sent by registered mail to the last known address as verified in the Municipality's records system.

8. REPAIRS DUE TO EMERGENCY & PUBLIC SAFETY ISSUES

- a) In any case where the action of a person contravenes this by-law and that action poses a danger to the public, the notice under Section 7 is not required and the Director or any person authorized to enforce this by-law may immediately take the following action:
 - i) remove and dispose of any item, structure or material placed or deposited on a municipal right of way contrary to this by-law and take any necessary steps to repair or reinstate the municipal right of way; and
 - ii) the Municipality may recover expenses resulting from actions taken in accordance with this Section by action, or it may collect them in the same manner as municipal taxes.

9. PENALTY

- a) Every person who contravenes any of the provisions of this by-law is guilty of an offence and liable upon conviction to a penalty as prescribed under the *Provincial Offences Act* of as set out in Schedule "A" of this by-law.
- b) Every person who contravenes any provision of this by-law is guilty of an offence under the provisions of the *Provincial Offences Act*, R.S.O. 1990, c. P.33, as amended, and is liable on conviction to a penalty not exceeding \$5,000, exclusive of costs, subject to the provisions of the Act.
- c) Every person who contravenes any of the provisions of this by-law is guilty of an offence and pursuant to Section 429 of the *Municipal Act, 2001*, c. 25, as amended, all contraventions of this by-law are designated as continuing offences.

10. FEES AND CHARGES

- a) All costs will be recovered with interest in relation to the administration and enforcement of this by-law under the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, Section 446 (3) and (5).

11. SEVERABILITY

In the event that any provision or part of this by-law is found to be invalid or unenforceable for any reason whatsoever, then the particular provision or part thereof shall be deemed to be severed from the remainder of the by-law and all other provisions or parts thereof shall remain in full force and shall be valid and enforceable to the fullest extent permitted by law.

12. SHORT TITLE

This by-law may be referred to as the “Right of Way By-law”

Read a FIRST and SECOND time this 16th day of August, 2021.

Read a THIRD time and FINALLY PASSED in Open Council this 16th day of August, 2021.

Mayor

Clerk

SCHEDULE "A"
TO BY-LAW NO. 45-21
MUNICIPALITY OF STRATHROY-CARADOC
SET FINE SCHEDULE
PART 1 – PROVINCIAL OFFENCES ACT
By-law No. 45-21 (Right of Way By-law)

Item	Short Form Wording	Provision Creating of Defining Offence	Set Fine
1	Construct a driveway which exceeds the grade/elevation of the roadway	Section 2 (f)	\$105.00
2	Place equipment/material/yard waste/refuse on municipal right of way	Section 3(a)	\$105.00
3	Close a municipal right of way in whole or in part	Section 3(b)	\$105.00
4	Activity that negatively impacts the use of a municipal right of way	Section 3(c)	\$105.00
5	Activity that negatively impacts the function of a municipal right of way	Section 3(c)	\$105.00
6	Deface or place graffiti on any permitted feature within a municipal right of way	Section 3(d)	\$105.00
7	Permit oils to be deposited or spilled on a municipal right of way	Section 3(e)	\$300.00
8	Permit chemicals to be deposited or spilled on a municipal right of way	Section 3(e)	\$300.00
9	Permit substances to be deposited or spilled on a municipal right of way	Section 3(e)	\$300.00
10	Permit spillage of any substances from a vehicle onto a municipal right of way	Section 3(e)	\$300.00
11	Cause oils to be deposited or spilled on a municipal right of way	Section 3(e)	\$300.00
12	Cause chemicals to be deposited or spilled on a municipal right of way	Section 3(e)	\$300.00
13	Cause substances to be deposited or spilled on a municipal right of way	Section 3(e)	\$300.00

Item	Short Form Wording	Provision Creating of Defining Offence	Set Fine
14	Cause spillage of any substances from a vehicle onto a municipal right of way	Section 3(e)	\$300.00
15	Encumber a municipal right of way	Section 3(f)	\$150.00
16	Damage a municipal right of way	Section 3(f)	\$300.00
17	Permit materials to be transferred from private property onto a municipal right of way within 75 metres of intersection	Section 3(g)	\$150.00
18	Cause materials to be transferred from private property onto a municipal right of way within 75 metres of intersection	Section 3(g)	\$150.00
19	Obstruct a drain on a municipal right of way	Section 3(h)	\$150.00
20	Obstruct a gutter on a municipal right of way	Section 3(h)	\$150.00
21	Obstruct a water course on a municipal right of way	Section 3(h)	\$150.00
22	Obstruct a culvert on a municipal right of way	Section 3(h)	\$150.00
23	Materials placed/thrown on municipal right of way	Section 3(i)	\$105.00
24	Display merchandise or articles within a municipal right of way	Section 3(j)	\$105.00
25	Exhibit merchandise or articles within a municipal right of way	Section 3(j)	\$105.00
26	Solicit/sell on a municipal right of way	Section 3(k)	\$105.00
27	Remove material placed within a municipal right of way by the municipality	Section 3(l)	\$200.00
28	Remove equipment place within a municipal right of way by the municipality	Section 3(l)	\$200.00
29	Remove device placed within a municipal right of way by the municipality	Section 3(l)	\$200.00
30	Alter material placed within a municipal right of way by the municipality	Section 3(l)	\$200.00

Item	Short Form Wording	Provision Creating of Defining Offence	Set Fine
31	Alter equipment placed within a municipal right of way by the municipality	Section 3(l)	\$200.00
32	Alter device placed with a municipal right of way by the municipality	Section 3(l)	\$300.00
33	Permit building onto a municipal right of way	Section 3(m)	\$300.00
34	Permit structure onto a municipal right of way	Section 3(m)	\$200.00
35	Permit clothing storage bin onto a municipal right of way	Section 3(m)	\$200.00
36	Permit consumer products on a municipal right of way	Section 3(n)	\$105.00
37	Permit newspaper box on a municipal right of way	Section 3(n)	\$105.00
38	Install a culvert within a municipal right of way	Section 3(o)	\$200.00
39	Construct a culvert within a municipal right of way	Section 3(o)	\$200.00
40	Construct a driveway or curb cut within a municipal right of way	Section 3(p)	\$105.00
41	Widen a driveway or curb cut within a municipal right of way	Section 3(p)	\$105.00
42	Remove a driveway or curb cut within a municipal right of way	Section 3(p)	\$105.00
43	Alter a driveway or curb cut within a municipal right of way	Section 3(p)	\$105.00
44	Allow tree to extend over or upon municipal right of way	Section 3(q)	\$50.00
45	Allow shrub to extend over or upon municipal right of way	Section 3(q)	\$50.00
46	Allow sapling to extend over or upon municipal right of way	Section 3(q)	\$50.00
47	Allow a hedge to extend over or upon municipal right of way	Section 3(q)	\$50.00
48	Allow plant to extend over or upon municipal right of way	Section 3(q)	\$50.00

Item	Short Form Wording	Provision Creating of Defining Offence	Set Fine
49	Construct a garden or plant material within a municipal right of way	Section 3(r)	\$50.00
50	Plant a garden or plant material within a municipal right of way	Section 3(r)	\$50.00
51	Maintain a garden or plant material within a municipal right of way	Section 3(r)	\$50.00
52	Discharge water onto a municipal right of way causing hazardous condition	Section 3(s)	\$200.00
53	Obstruct the free passage of pedestrian or vehicle traffic on any walkway or roadway	Section 3(t)	\$200.00
54	Pull down, destroy, deface any municipal infrastructure on a municipal right of way	Section 3(u)	\$105.00
55	Permit flood light to directly or indirectly illuminate a municipal right of way	Section 3(v)	\$105.00
56	Operate vehicle with wheels depositing mud, clay, lime, and similar material, fertilizer, manure, or similar material onto a municipal right of way	Section 3(w)	\$105.00
57	Load vehicle as to permit contents to fall onto a municipal right of way	Section 3(x)	\$150.00
58	Load vehicle as to permit contents to spill onto a municipal right of way	Section 3(x)	\$150.00
59	Load vehicle as to permit contents to deposit onto a municipal right of way	Section 3(x)	\$150.00
60	Load vehicle as to cause contents to fall onto a municipal right of way	Section 3(x)	\$150.00
61	Load vehicle as to cause contents to spill onto a municipal right of way	Section 3(x)	\$150.00
62	Load vehicle as to cause contents to deposit onto a municipal right of way	Section 3(x)	\$150.00
63	Plant any crop on municipal right of way	Section 3(y)	\$300.00

Item	Short Form Wording	Provision Creating of Defining Offence	Set Fine
64	Grow any crop on municipal right of way	Section 3(y)	\$300.00
65	Cultivate any crop on municipal right of way	Section 3(y)	\$300.00
66	Permit animal to defecate on municipal right of way	Section 3(z)	\$50.00
67	Permit obstruction on municipal right of way	Section 3(aa)	\$105.00
68	Permit fence on municipal right of way	Section 3(aa)	\$200.00
69	Attach sign on municipal right of way	Section 3(bb)	\$105.00
70	Attach handbill on municipal right of way	Section 3(bb)	\$105.00
71	Attach poster on municipal right of way	Section 3(bb)	\$105.00
72	Attach item on municipal right of way	Section 3(bb)	\$105.00
73	Cause fire on municipal right of way	Section 3(cc)	\$200.00
74	Permit fire on municipal right of way	Section 3(cc)	\$105.00
75	Permit plants within two metres of fire hydrant	Section 3(dd)	\$105.00
76	Permit hedges within two metres of fire hydrant	Section 3(dd)	\$105.00
77	Permit shrubs within two metres of fire hydrant	Section 3(dd)	\$105.00
78	Permit tall grass within two metres of fire hydrant	Section 3(dd)	\$105.00
79	Permit fences within two metres of fire hydrant	Section 3(dd)	\$105.00
80	Permit rock piles within two metres of fire hydrant	Section 3(dd)	\$105.00
81	Pile snow within two metres of fire hydrant	Section 3(dd)	\$105.00
82	Pile material within two metres of fire hydrant	Section 3(dd)	\$105.00
83	Fail to clear municipal right of way adjacent to property in settlement area	Section 3(ee)	\$105.00
84	Remove tree on municipal right of way	Section 3(ff)	\$305.00
85	Trim tree in way that may damage on municipal right of way	Section 3(ff)	\$105.00

Item	Short Form Wording	Provision Creating of Defining Offence	Set Fine
86	Load farm tractor, trailer or commercial vehicle on right of way 75 metres from intersection	Section 3(gg)	\$200.00
87	Unload farm tractor, trailer or commercial vehicle on right of way 75 metres from intersection	Section 3(gg)	\$200.00
88	Fail to access property other than designated driveway	Section 3(hh)	\$105.00
89	Construct driveway 1.5 m from edge of roadway	Section 3 (ii)	\$105.00
90	Fail to comply with a license	Section 5(a)	\$200.00