



**BY-LAW NUMBER 174-2003
OF
THE CORPORATION OF THE CITY OF STRATFORD**

BEING a By-law to regulate smoking in public places and work places in the City of Stratford and to repeal By-law 62-93 as amended.

WHEREAS Section 8 of the *Municipal Act 2001, S.O. 2001, c.25* as amended provides that the powers of a municipality shall be interpreted broadly so as to confer broad authority on the municipality to govern its affairs as it considers appropriate and to enhance the municipality's ability to respond to municipal issues;

AND WHEREAS Section 9 of the *Municipal Act, 2001* provides that a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority;

AND WHEREAS clause 6 of subsection 10 (2) of the *Municipal Act, 2001* provides that a municipality may pass by-laws in the interest of the health, safety and well-being of its residents;

AND WHEREAS section 115 of the *Municipal Act, 2001* authorizes the council of a municipality to pass a by-law regulating the smoking or vapourizing of tobacco and cannabis in public places and work places within the municipality and designating public places or work places or classes or parts of such places as places in which smoking tobacco or cannabis or holding lighted tobacco, cannabis, or an electronic cigarette is prohibited;

AND WHEREAS Section 128 of the *Municipal Act, 2001* provides that a municipality may prohibit and regulate with respect to public nuisances, including matters that, in the opinion of the council are or could become or cause public nuisances;

AND WHEREAS Section 129 of the *Municipal Act, 2001* provides that a local municipality may prohibit and regulate with respect to odours;

AND WHEREAS the Council of The Corporation of the City of Stratford wishes to prohibit the smoking or vapourizing of tobacco and cannabis in certain public places;

AND WHEREAS Section 18 of the *Smoke-Free Ontario Act, 2017, S.O. 2017, c. 26, Schedule 3*, contemplates that a municipal by-law may deal with a matter to which that Act applies but in a more restrictive manner, and directs that the by-law prevails to the extent that it is more restrictive than the Act;

AND WHEREAS it has been determined that second-hand smoke is a serious health hazard because of its adverse effects and risk to the health of the inhabitants, visitors and workers in the municipality;

AND WHEREAS it is desirable for the purpose of promoting and protecting the health, safety and welfare of the inhabitants, visitors and workers of the City to ensure that public places and work places will be free from second-hand smoke, except those places or areas exempted by by-law;

NOW THEREFORE BE IT ENACTED by Council of Corporation of the City of Stratford as follows:

1.0 Definitions and Interpretation

In this By-law:

“bar or night club” means a building or structure, or a portion thereof, which has both of the following features:

- 1) the predominant purpose is the serving of alcohol and entry is intended to be restricted to those of the age of majority; and,
- 2) the food served, if any, would generally be described as a “snack” rather than a full meal;

and includes, without limiting the generality of the foregoing, bars, taverns, nights clubs, adult entertainment establishments;

“beer garden, beer tent or tent” means a delineated outdoor area where beverages are sold or offered to the public for immediate consumption that:

- 1) is not covered by a temporary or permanent roof; or
- 2) if covered by a temporary or permanent roof;
 - i) has no permanent walls surrounding the roofed area; and
 - ii) has a circulation of fresh air through the area.

“bingo hall” means any building, location or premises where bingo events within the meaning of the *Gaming Control Act, 1992* are conducted;

“cannabis” means cannabis as defined in section 2(1) of the *Cannabis Act* (Canada) and includes any products containing cannabis;

“casino” means an establishment within the meaning of the *Gaming Control Act, 1992* and includes any building, location or premises or portion thereof, where the conduct of one or more gaming events is held for the purpose of raising money for a charity or non-profit organization;

“City” means The Corporation of the City of Stratford;

“City Park” means land and land covered by water and all portions thereof under the control, management or joint-management of the City, that is or hereafter may be established, dedicated, set apart or made available by the City for recreational purposes, including without limiting the generality of the foregoing, a park, playgrounds, sports fields, playing fields, trails, splashpads, pools, a leash-free dog park, skate park, and an environmentally significant area, including any buildings, structures, facilities, erections and improvements located in or on such land;

“common area” means any indoor area of a building that is open to the public for the purposes of access to a retail establishment, office, hotel, motel, inn, hostel, shopping mall, shopping plaza, and includes an elevator, escalator, stairway, corridor, passageway, hallway, unenclosed eating areas in corridors, public restrooms, unenclosed public seating areas and unenclosed public standing areas, whether or not the eating area, seating area or standing area is leased;

“common area of a residential building” includes, but is not limited to an elevator, escalator, stairway, hallway, corridor, a laundry room, a foyer, a reception area, a community room and a parking garage. It does not include rented or privately owned living quarters;

“convention facility” means a place of public assembly with space available for rent or lease for a meeting or assembly of persons, representatives or delegates, whether public or private in nature and includes a hotel convention facility;

“designated public place” means a public place as designated under section 2 of this By-law;

“designated smoking room (DSR)” means a room designated by the employer or proprietor for use as a smoking area provided that the room is separately enclosed and ventilated to the exterior of the premises in accordance with the standards as prescribed in the *Tobacco Control Act Ontario Regulation 613/94* and any amendments thereto. Further, the room designated as a DSR must be:

- 1) not located in an essential part of the building through which persons must travel to get to another area of the premises, such as but not limited to a work site, an office, storage area, eating area, washroom, stairwell or reception area;
- 2) either:
 - i) set aside specifically for the purpose of smoking; or
 - ii) set aside for the purpose of smoking and for the purpose of carrying on another activity if there is another area on the premises, that is equal to or greater in size than the smoking area, in which smoking is not permitted and in which that other activity may be carried on; and
- 3) is signed by the proprietor as a DSR in prominent locations in the DSR and at entrances to the DSR so as to be conspicuous at all times

“electronic cigarette” or “e-cigarette” or “electronic smoking device” means a vapourizer or inhalant-type device, whether called an electronic cigarette or any other name, that contains a power source and heating element designed to heat a substance and produce a vapour intended to be inhaled by the user of the device directly through the mouth, whether or not the vapour contains nicotine or cannabis;

“employee” means a person who, being paid or unpaid, performs any work for or supplies any service to an employer, or a person who receives any instruction or training in the activity, business, work, trade, occupation or profession of an employer and includes a volunteer and a person who is self-employed and “employment” has a corresponding meaning;

“employer” means any person who, as the owner, proprietor, manager, contractor, superintendent, supervisor or overseer of any activity, business, work trade, occupation or profession, has control over or direction of, or is directly or indirectly responsible for the employment of an employee and with respect to public transportation vehicles, taxicabs or limousines, the owner or operator of the public transportation vehicle or taxicab service;

“Entrance or Exit” means any entrance or exit used by the public and or staff to enter or exit a Municipal Building and also means any external serving window of a municipal building or municipal occupied building, or part thereof which is used as a concession stand;

“food court” means an area within an enclosed shopping area or shopping mall where food or drink is offered for sale or sold to the public for immediate consumption;

“inspector” means any employee or class of employee of the City or the Perth District Health Unit, authorized by the City to carry out an inspection and to enforce the provisions of this By-law or a person or class of person appointed by Council of the City as a by-law enforcement officer to enforce this By-law, or any police officer of the Stratford Police Services;

“laundromat” means any facility, premises or areas within a building to which the public has access for the purposes of laundering, washing or drying;

“Market Square” means the property where City Hall is located and described as the lands bounded by Downie Street, Wellington Street and Block “C” otherwise known as Market Place;

“Municipal Building” means any enclosed building or structure owned by the City or any building of which any portion is rented to the City and includes, and is not limited to municipal offices, transit facilities, bus shelters, community centres, libraries, indoor swimming pools, arenas, museums, art galleries, public washrooms, concession stands, recreational centres, fire halls, ambulance stations, police stations, golf course clubhouses and all Perth and Stratford Housing Corporation (PSHC) properties;

“outdoor area” means an existing area as of the date of this By-law coming into force, where food or beverages are sold or offered to the public for immediate consumption that:

- 1) is not covered by a temporary or permanent roof; or
- 2) if covered by a temporary or permanent roof:
 - i) has one or more unobstructed, exterior openings in the walls surrounding the roofed area which are:
 - a) located between the floor and a height of 2.44 metres above the floor, and
 - b) equal to or greater in area than 35% of the total wall surface, such wall surface to be calculated as if the roofed area were surrounded by walls 2.44 metres in height;
 - ii) does not share open windows with a place of refreshment;
 - iii) does not share open doors with a place of refreshment, except when doors are being opened by individuals to enter or exit the outdoor area;
 - iv) does not have a thermostat controlled heating or air conditioning system nor does it share a thermostat controlled heating or air conditioning system with a place of refreshment; and,
 - v) has a circulation of fresh air throughout the area.

“person” includes a corporation;

“place of amusement” means an indoor area of a building or structure or portion thereof, whether privately or publicly owned, in which the predominant use is that of the playing of games or amusement and includes without limiting the generality thereof, bowling, billiards or pool, video games arcade machines;

“place of public assembly” means the whole or part of an area to which the public has access by right or by invitation, express or implied, whether by payment of money or not, but does not include an outdoor area;

“place of refreshment” means any premises where food or drink is offered for sale or is sold to the public for immediate consumption together with any part where the public has access and includes without limiting such, a restaurant, a dining room, a dairy bar, a coffee shop, a donut shop, a snack bar, a refreshment stand, a banquet hall or facility, a bar or night club, a tavern, an adult entertainment establishment, a beer garden, beer tent or tent, but does **not** include an outdoor area;

“playground” means any part of an outdoor area fitted with play equipment, including but not limited to slides, swings, climbing equipment. This area may be defined by a border which encloses an area of sand, rubber, or any similar safety surface;

“private club” means a club that:

- 1) has a membership list;
- 2) where each member is required by the club to pay an annual or periodic membership;
- 3) has an executive/leadership that is elected by all the members on an annual or periodic basis;
- 4) has a constitution or by-laws that provide the governing rules for the membership, executives, fees, etc.,
- 5) is not-for-profit;
- 6) that has a requirement in its by-laws where non-members cannot enter the premises to consume food or alcohol unless accompanied by a member.

“proprietor” means the person who ultimately controls, governs or directs the activity carried on within a public place and includes the person actually in charge of the premises at any particular time;

“public facility” means any hall, room or banquet area whether publicly owned or privately owned, and is rented for an event or function but does **not** include an outdoor area;

“public place” means the whole or part of any building to which the public has access;

“reception area” means the public space used by an office or establishment for the receiving or greeting of customers, clients or other persons dealing with such office or establishment;

“Recreation Amenity” means any part of an outdoor area established for recreation or sport activity, including but not limited to playgrounds, pools, wading pools, spray pads, outdoor skating rinks, sport fields (including but not limited to fields for soccer, baseball, football, field hockey, lacrosse, cricket), skateboard parks, bicycle or BMX parks, courts (including but not limited to courts for tennis, basketball);“

“retail establishment” means any building or part of a building, booth, stall or place where goods are exposed for sale or offered for sale by retail;

“school bus” means a public vehicle licensed for the purpose of transporting children to and from school or to or from any activity, event or function associated therewith;

“seating capacity” means the number of legal seats available for use by patrons or customers engaging in the immediate consumption of food or drink while seated;

“service counter” means an indoor counter where persons receive a service including, but not limited to, the exchange of money, sales, provision of information, transactions, advice or the transfer of money or goods;

“service line” means an indoor line of two or more persons awaiting service of any kind, regardless of whether or not such service involves the exchange of money including, but not limited to sales, provision of information, transactions, advice or the transfer of money or goods;

“shopping mall” means any enclosed building or group of buildings containing one or more retail establishments;

“smoke” or **“smoking”** means the smoking or holding of lighted tobacco, cannabis or electronic cigarettes in any form and includes the holding or carrying of a lighted cigar, cigarette, e-cigarette or pipe or any other lighted smoking equipment, but excludes smoke or smoking where smoke or smoking is used in a stage production of a theatrical rehearsal or performance;

“smoke-free” means that no smoking or vaping is permitted;

“taxi-cab service” means the use of a taxi-cab or other vehicle for the conveyance of one or more passengers in exchange for a fee or other consideration;

“vapourizing or vaping or vape” means:

- 1) inhaling or exhaling the vapour, emissions or aerosol produced by an electronic smoking device or similar device containing tobacco, cannabis or any other substance, or,
- 2) holding or otherwise having control of an electronic smoking device that is producing vapour, emissions or aerosol from tobacco, cannabis or any other substances;

“work place” means a building, structure, vessel, vehicle or conveyance or part thereof, to which the public may or may not have access either express or implied, in which one or more employees work, including any other area in the building, structure, vessel, vehicle or conveyance utilized by employees, but does not include an outdoor patio.

1.1 All schedules attached to this By-law form part of this By-law.

1.2 Headings and sub-headings are inserted for ease of reference and guidance purposes only and do not form part of this By-law.

1.3 Where this By-law cites or refers to any act, regulation, code or other by-law, the citation or reference is to that act, regulation, code or other by-law as amended, whether amended before or after the commencement of this By-law, and includes reference to any other act, regulation, code or other by-law that may be substituted in its place.

1.4 Nothing in this By-law relieves a person from complying with any provision of any federal, provincial or municipal law or regulation or any requirement of any lawful permit, order or licence.

2.0 General Prohibitions

2.1 No person shall smoke or vape in any of the following designated public places, whether or not a no smoking sign is posted:

- a) a common area;
- b) any indoor service line or any service counter in any premise to which the public has access;
- c) a school bus;
- d) a theatre or auditorium, gymnasium, indoor swimming pool, locker room, arena, community centre, library, museum or art gallery or other enclosed place of public assembly;
- e) a public washroom;
- f) a food court;
- g) a public facility;

- h) a reception area;
- i) a place of amusement;
- j) a municipally owned or leased building, structure, vehicle, vessel or conveyance;
- k) a bingo hall;
- l) a place of refreshment;
- m) a taxi-cab service;
- n) a public transit vehicle;
- o) a common area of a residential building;
- p) a retail establishment or a shopping mall;
- q) a transit waiting room, including a transit shelter;
- r) a convention facility;
- s) an enclosed parking garage to which the public has access;
- t) a laundromat;
- u) a barber shop or hairdressing establishment;
- v) a casino, race track or premises with slot machines;
- w) a shelter or drop in centre;
- x) a common area of a public place;
- y) a private club;
- z) all Perth and Stratford Housing Corporation (PSHC) properties for those lease agreements entered into after August, 2018; and
- aa) Indoor common areas in condominiums, apartment buildings and university / college residences.

2.2 No person shall smoke or vape in any work place whether or not a no smoking sign is posted.

2.3 Every proprietor and every employer shall ensure compliance with this By-law.

2.4 Every operator of a taxi-cab service shall ensure compliance with the provisions of this By-law at all times while operating as a taxi-cab or limousine.

2.5 Every employer shall make it known to each employee in the work place that smoking is prohibited in the work place.

2.6 An employer, operator, or proprietor must not permit a person to smoke or vape on premises controlled or owned by them where doing so is prohibited by this By-law.

3.0 Signs to be Posted

3.1 Every proprietor of a public place subject to the provisions of this By-law, and every employer shall post and maintain signs at each entrance to their building or premises and in each washroom, in locations that are clearly visible to all persons.

- 3.2 Each sign required to be posted by this By-law shall be a minimum of 14 centimetres (5.5 inches) by 14 centimetres (5.5 inches) in size that includes a depiction of the international no smoking symbol at least 7.5 centimetres (3 inches) in size and have lettering at least 1.6 centimetres (5/8 inch) high and at least 0.4 centimetres (1/8 inch) wide at the narrowest point with the rest of the letters sized proportionately that reads "City of Stratford By-law, Maximum Fine \$5,000" as shown in Schedule "A" attached hereto.
- 3.3 Any sign prohibiting smoking that refers to a previous By-law of the City is deemed to be referring to this By-law.
- 3.4 No person shall remove, cover up or alter any sign which has been posted pursuant to the requirements of this By-law.

4.0 Ashtrays

- 4.1 Every employer shall ensure that no ashtrays or similar like paraphernalia are placed or permitted to remain in any part of the work place.
- 4.2 Every proprietor shall ensure that no ashtrays or similar like paraphernalia are placed or permitted to remain in any part of the premises referred to in this By-law, where smoking is prohibited.

5.0 Exemptions and Restricted Areas

- 5.1 Despite any other provisions of this By-law, a person may smoke or vape in the following areas, provided the area meets the conditions of the *Smoke-free Ontario Act, 2017* for such exemption:
- a) an outdoor area subject to the provisions of this By-law including but not limited to section 14;
 - b) a room or rooms in a hotel, motel or other place where rooms are rented for sleeping accommodation, provided that:
 - i) the room is used for sleeping accommodation only;
 - ii) each room is identified and specifically set aside as a room in which smoking is permitted; and
 - iii) the proprietor indicates that smoking is permitted in the identified room(s) by installing and maintaining a sign that is at the entrance to the identified room(s) so as to be conspicuous at all times;
 - c) short term accommodation units in private residence buildings;
 - d) a bed and breakfast establishment, a guest home;
 - e) private dwellings;
 - f) Despite any other provision of the By-law, a person may smoke or vape in a location permitted pursuant to section 13 of the *Smoke-Free Ontario Act, 2017*.
- 5.2 Notwithstanding section 5.0 of this By-law, a Designated Smoking Room (DSR) shall not be permitted to be installed after April 1, 2005 in premises where a DSR, in accordance with this by-law, did not previously exist. This provision does not prohibit maintenance after April 1, 2005, of a lawfully established DSR.
- 5.3 A new outdoor area established after this by-law comes into effect, in which smoking is permitted in accordance with all other provisions of this By-law, shall be restricted to a maximum seating capacity of 50.

6.0 Inspections

- 6.1 An inspector may, at any reasonable time, enter any designated public place or work place for the purposes of determining compliance with this By-law.
- 6.2 No inspector may enter a work place that is also a dwelling without the consent of the occupant or without first obtaining and producing a warrant.
- 6.3 No person shall hinder or obstruct, or attempt to hinder or obstruct, an inspector in the exercise of a power or performance of a duty under this By-law.
- 6.4 Where any person contravenes any provision of this By-law, an Inspector may direct such person to comply with this By-law. No person so directed, shall fail to comply with such direction without delay.
- 6.5 Where an Inspector has reasonable grounds to believe that an offence has been committed by a person, the Inspector may require the name, address and proof of identity of that person and no person shall fail to supply the required information.

7.0 Offences and Penalty

- 7.1 Every person who is convicted of an offence under any provisions of this By-law shall be liable to a penalty as set out in section 61 of the *Provincial Offences Act, R.S.O. 1990 chapter P.33* or any successor thereof.
- 7.2 If this By-law is contravened and a conviction entered, in addition to any other remedy and to any penalty that is imposed, the court in which the conviction is entered and any court of competent jurisdiction thereafter may make an order prohibiting the continuation or repetition of the offence by the person convicted.

8.0 Conflicts

- 8.1 If a provision of this By-law conflicts with an Act or Regulation or another By-law, the provision that is the most restrictive of smoking shall prevail.

9.0 Severability

- 9.1 If any section or sections of this By-law, or part thereof, is found in any court of law to be illegal or beyond the power of the City to enact, such sections or part thereof shall be deemed to be severable and all other sections or parts of the By-law shall be deemed to be separate and independent thereof and to be enacted as such.

10.0 Repeal

- 10.1 By-law 62-93 and any amendments thereto are repealed upon this By-law coming into effect.

11.0 Effective Date

- 11.1 This By-law comes into effect on August 1, 2004 as it relates to Bingo Country, Royal Canadian Legion Branch 8, and Army Navy and Air Force Veterans Club, Unit 261.
- 11.2 This By-law comes into effect on April 1, 2004 as it relates to all other locations.

12.0 Schedules

- 12.1 Schedule "A" attached hereto forms part of this By-law.

12.2 Schedule "B" attached hereto forms part of this By-law.

12.3 Schedule "C" attached hereto forms part of this By-law.

13.0 Title

13.1 This By-law may be cited as the City of Stratford "**Smoking in Public Places By-law**".

14.0 Outdoor Spaces

14.1 No person shall be permitted to smoke or vape within nine (9) metres (30 feet) of any part of the following outdoor spaces:

- a) an Entrance or Exit of a Municipal Building
- b) Sheltered outdoors areas with a roof and more than two walls that the public or employees frequent, or are invited to (such as a bus shelter);
- c) City property.

14.2 No person shall be permitted to smoke or vape within any of the following outdoor spaces:

- a) Children's playgrounds and all public areas within 20 metres of these grounds;
- b) Schools, on school grounds, and all public areas within 20 metres of these grounds;
- c) Publicly owned sports fields, nearby spectator areas and public areas within 20 metres of these areas;
- d) Outdoor grounds of hospitals (public/private) and psychiatric facilities;
- e) Reserved seating areas at outdoor sports and entertainment locations;
- f) Grounds of community recreational facilities, and public areas within 20 metres of those grounds; and,
- g) Restaurant and bar patios and within 9 metres of these patios.

14.3 No person shall be permitted to smoke or vape in a City Park.

14.4 No person shall be permitted to smoke or vape in Market Square in the following areas:

- a) Those areas identified on the attached Schedule 'B';
- b) In the parking area or sidewalk area when Market Square is closed for a special event in accordance with the applicable permits issued by the City and as identified in Schedule 'C;' and
- c) Within 9 metres of any entrance to Stratford City Hall."

15.0 Hospital Property

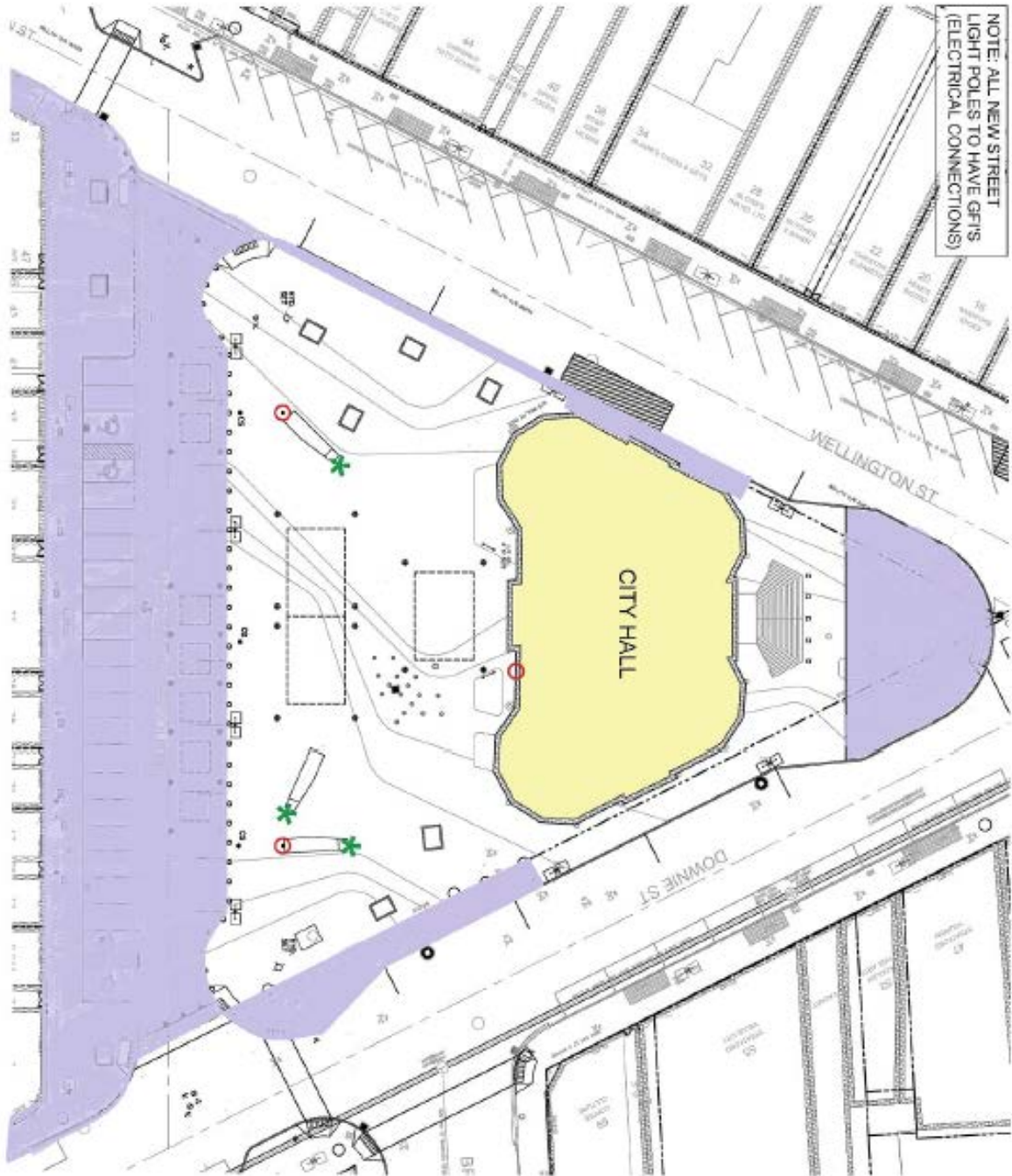
15.1 No person shall smoke on Stratford General Hospital properties identified by municipal address below, or in any buildings, structures and open spaces located on the municipal addresses below:

- a) 46 General Hospital Drive
- b) 90 John Street South

This is Schedule "A" to By-law Number 174-2003
enacted this 22nd day of September, 2003

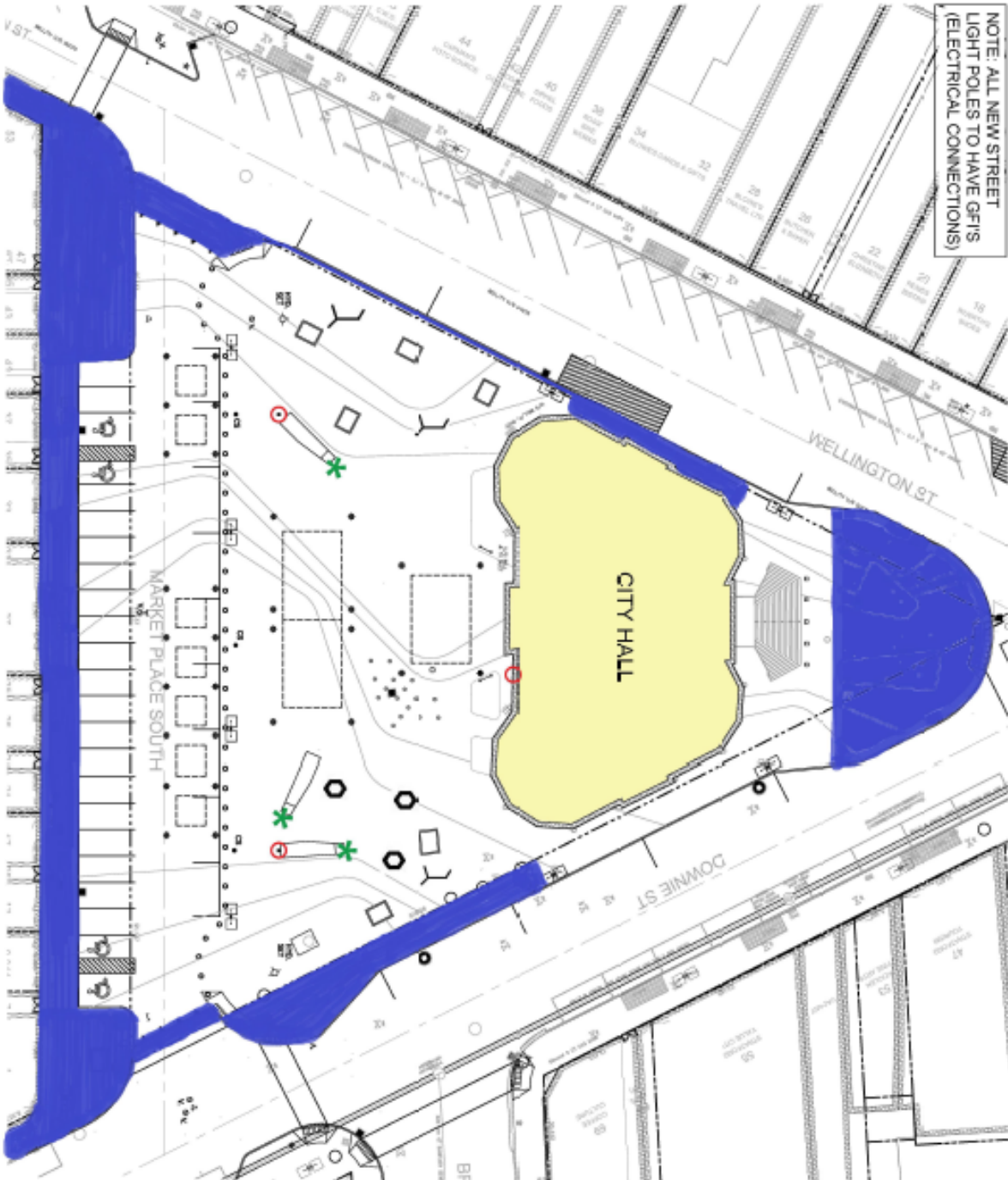


This is Schedule "B" to
Smoking in Public Places By-law 174-2003 as amended



<p>LEGEND</p> <ul style="list-style-type: none"> ★ GFI Locations at end of Sealing Paths - Electrical Connections ○ Hose Bib Locations - Water Connections ■ Test Anchors Smoking Areas 	
<p>Schedule B</p>	
<p>drawing title Market Square Smoking Areas</p>	<p>drawing no. L-SK #5.0</p>
<p>drawn by JH</p> <p>checked by RT</p> <p>printed 16/006</p>	<p>scale</p> <p>date MAY 17, 2017</p> <p>file 16/006</p>
<p>LANDSCAPE SKETCH #5.0</p>	
<p>GSP group LANDSCAPE ARCHITECTURE 1100 BROADVIEW AVE. TORONTO, ONT. M4M 3B9 www.gspinc.com</p>	

This is Schedule "C" to
Smoking in Public Places By-law 174-2003 as amended



<p>LEGEND</p> <ul style="list-style-type: none"> ✱ GFI Locations at end of Sealing Panels - Electrical Connections ○ House End Locations - Visual Connections ⊕ Tent Anchors Smoking Areas 	
<p>Schedule C</p>	
<p>drawn by: JH checked by: RT printed: 18006</p>	<p>scale: date: MAY 17, 2017 file: 18006</p>
<p>EVENT ROUGH IN PLAN STRATFORD MARKET SQUARE STRATFORD ONTARIO</p>	
<p>drawing title: Market Square Special Event Smoking Areas when parking area is closed</p>	
<p>GSP group LANDSCAPE ARCHITECTS 1188 BRANT ST. W. STRATFORD ONT. N5G 1S8 www.gspgroup.ca</p>	<p>drawing no.: L-SK #5.0</p>
<p>LANDSCAPE SKETCH #5.0</p>	