



THE CORPORATION OF THE TOWN OF ORANGEVILLE

BY-LAW NUMBER 41 - 2003

**A BY-LAW TO PERMIT THE CREATION OF BOULEVARD CAFÉS IN THE CENTRAL BUSINESS DISTRICT**

WHEREAS the *Municipal Act, 2001, S.O. 2001, c.25, S.8* provides a Municipality natural person powers for the purposes of exercising capacity, rights and powers of the *Act*;

AND WHEREAS the *Municipal Act, 2001, S.O. 2001, c.25, S.130* authorizes a municipality to regulate matters for purposes related to the health, safety and well-being of its inhabitants;

AND WHEREAS the Council of the Town of Orangeville wishes to permit the establishment of boulevard cafés in the Central Business District while ensuring the safe and accessible passage over sidewalks;

NOW THEREFORE the council of The Corporation of the Town of Orangeville hereby enacts as follows:

**1 DEFINITIONS**

In this by-law:

- 1.1 "boulevard café" means a designated outdoor area on the sidewalk associated with an adjoining commercial premises, no wider than the width of the premises' storefront, excluding the width of the entrance.
- 1.2 "Central Business District" means the area that is zoned Central Business District (CBD) by By-law 22-90, as amended.
- 1.3 "Officer" means a municipal by-law enforcement officer, provincial offences officer, police officer or a public health inspector.
- 1.4 "sidewalk" means the hard surface provided for use of pedestrians on the municipal road allowance and situated between any building and the curb of the street.
- 1.5 "summer season" means the period of time between May 1 and September 30 of any given year.
- 1.6 "Town" means The Corporation of the Town of Orangeville.

**2 REQUIREMENT FOR PERMIT**

- 2.1 No person shall create a boulevard café in the Central Business District unless a permit has been obtained in accordance with the requirements of this by-law.

**3 EXCEPTION**

- 3.1 The regulations in this by-law do not apply to events organized by the Orangeville Business Improvement Area or authorized by the Town, which events involve the closing of Broadway to vehicular traffic.

#### **4 APPLICATION**

- 4.1 Every person applying for a permit, as required by this by-law, shall file with the Director of Planning, or his designate, a completed application in the form prescribed by the Director of Planning. The application will be accompanied by a scaled plan showing the extent of the boulevard café on the sidewalk and illustrations of all associated structures and the required insurance certificate. The application will also indicate how the proposal complies with the conditions of this by-law. The Director of Planning will circulate the application to the Building and Public Works Departments and designated members of Heritage Orangeville for comment prior to approval.
- 4.2 There will be no fee for a permit required by this by-law.

#### **5 COMMENCEMENT AND EXPIRY**

- 5.1 Any permit issued under the provisions of this by-law shall be limited to the summer season only of the year in which it is issued.

#### **6 GENERAL CONDITIONS**

- 6.1 A boulevard café must be associated with and accessory to an adjoining eating establishment, restaurant or food store use that is permitted by the Town's Zoning By-law and all other applicable Town by-laws.
- 6.2 The playing of music is prohibited in a boulevard café.
- 6.3 The right of access for the Town will be maintained should repairs or maintenance be required on the boulevard on which the boulevard café is located.
- 6.4 Any and all emergency accesses and exits as marked on the approved plan will be maintained.
- 6.5 A liability insurance policy in an amount of no less than \$2,000,000, with a cross liability clause naming the Town as an additional insured will be obtained.
- 6.6 A boulevard café shall not impede the flow of pedestrian traffic. A minimum 1.5 metre wide free and clear pathway must be maintained on the sidewalk at all times.
- 6.7 A boulevard café must be enclosed by a fence or railing that is at least 0.9 metres high, but no more than 1.2 metres high. If alcoholic beverages are to be served, the fencing requirements of the Alcohol and Gaming Commission of Ontario will supersede this requirement.
- 6.8 Where possible, a fence associated with a boulevard café shall not obstruct the sight lines at the intersection of two streets.
- 6.9 No permanent structures are permitted.
- 6.10 All elements of a boulevard café (i.e. fencing, tables, chairs, heaters, etc.) must be removed from the sidewalk at the termination of the permit.
- 6.11 Any and all lighting associated with a boulevard café must be directed away from residential areas, other properties and streets.

#### **7 INSPECTION**

- 7.1 Any person to whom a permit has been issued pursuant to this by-law shall permit any Officer to inspect the premises for which the permit was issued at any time.

**8 HERITAGE PERMITS**

- 8.1 Issuance of a permit for a boulevard café by the Town will constitute approval of a Heritage Permit for the alteration of the exterior of a building within the Downtown Orangeville Heritage Conservation District, as designated under Part V of the *Ontario Heritage Act*.

**9 REVOCATION, SUSPENSION**

- 9.1 The Town reserves the right to terminate permission at any time for any or no reason upon fourteen (14) days written notice, mailed or delivered to the applicant's last known address.

**10 OFFENCE AND PENALTY**

- 10.1 Any person who contravenes any provision of this by-law is guilty of an offence and upon conviction is liable to a fine and/or penalty as provided for in the *Provincial Offences Act, R.S.O. 1990, Chapter P.33 as amended*, for each offence and such penalty and/or fine shall be recoverable under the *Provincial Offences Act*

**11 WORD USAGE**

- 11.1 As used in this by-law, words used in the present tense include the future; words used in the masculine gender include the feminine and neuter; and the singular number includes the plural and the plural the singular.
- 11.2 The headings and subheadings used in this by-law shall not form part of the by-law, but shall be deemed to be inserted for convenience of reference only.

**12 SEVERABILITY**

- 12.1 Should any section or subsection of this by-law or any part or parts thereof be found by law to be illegal or beyond the power of Council to enact, such section or subsection or part or parts thereof shall be deemed to be severable so that the remainder of this by-law is separate and therefore enacted as such.

**13 CONFLICT WITH ANY OTHER BY-LAW**

- 13.1 In the event of any conflict between any provisions of this by-law and any other by-law previously passed, the provisions of this by-law shall prevail.

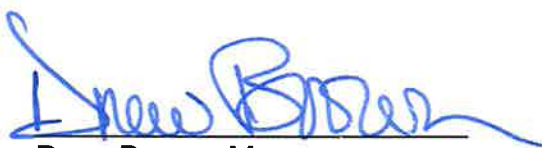
**14 SHORT TITLE**

- 14.1 This by-law shall be known as the "Boulevard Café By-law."

**15 EFFECTIVE DATE**

- 15.1 This by-law shall come into force and take effect on the date of passing.

READ THREE TIMES AND FINALLY PASSED IN OPEN COUNCIL THIS 5TH DAY OF MAY, 2003.

  
Drew Brown, Mayor

  
Cheryl Johns, Clerk