



THE CORPORATION OF THE TOWN OF COBOURG

BY-LAW NUMBER 023-2016

**A BY-LAW TO REGULATE THE PLACEMENT, CONSTRUCTION, INSTALLATION AND MAINTENANCE OF OBJECTS ON SIDEWALKS AND HIGHWAYS, FOR THE DISPLAY OF MERCHANDISE AND TEMPORARY PATIOS IN THE TOWN OF COBOURG.**

**WHEREAS** Pursuant to Section 11(2) and 11(3) of the *Municipal Act, 2001*, S.O. 2001, c. 25, allows a Municipality to pass by-laws to licence a business, those purposes included but not limited to the health and safety and well-being of persons; and protection of persons and property, including consumer protection;

**NOW THEREFORE** the Municipal Council of the Corporation of the Town of Cobourg enacts as follows:

**1. DEFINITIONS:**

**"Appeal Committee"** shall mean the Municipal Council of the Town of Cobourg;

**"Boulevard"** shall mean the portion of every road allowance within the limits of the Town of Cobourg which is not used as a sidewalk, driveway access, travelled roadway or shoulder;

**"Council"** shall mean the Council of the Corporation of the Town of Cobourg;

**"Highway"** includes a common and public highway, street, road or lane under the jurisdiction of the Municipality whether opened or unopened and includes a bridge and includes the shoulders, boulevards, sidewalks, ditches, culverts and other untraveled portions of a highway;

**"Merchandise"** shall mean items that can be bought or sold;

**"Municipality"** shall mean the Corporation of the Town of Cobourg:  
'Person' includes an individual, partnership and corporation and the heirs, executors, administrators or other legal representatives of a person to whom the context can apply according to law but shall not include the Municipality;

**"Safety Zone"** shall mean a 2ft distance from the edge of the curb towards the building for safety.

**"Sidewalk"** shall mean a sidewalk constructed by or on behalf of the Municipality within a highway.

**"Small Patio"** shall mean a patio that has no more than two (2) tables and four (4) chairs and does not fall under the provisions of By-law No. 22-2002 Being a by-law to Regulate Outdoor Patios on Sidewalks.

## **2.0 GENERAL**

- 2.1 No person shall obstruct or impede any sidewalk, boulevard or highway or any part thereof within the Municipality unless the prior written permission of the Municipality is obtained.
- 2.2 No person shall place, construct or install any object or objects requiring a foundation on any sidewalk, boulevard or highway without the prior expressed written consent of the Municipality and through an encroachment agreement. The aforesaid approval shall be in addition to any other approvals required from any regulating body.
- 2.3 No person shall place, install or maintain any object or objects (which do not require a foundation) on any sidewalk, boulevard or highway without having a current and valid Permit issued by the Municipality pursuant to this By-law for the placement, construction, installation or maintenance of such object or objects.
- 2.4 No person shall place, install or maintain any object or objects on any sidewalk or boulevard that is within the "Safety Zone".

## **3.0 MERCHANDISE DISPLAY PERMITS**

- 3.1 Merchandise Display Permit requests shall be submitted in accordance with this By-law and on the prescribed Application Form attached hereto as Schedule "B" to the Municipality and all other material and information as is required by this By-law.
- 3.2 Every request for a Merchandise Display Permit in accordance with this By-law to place, construct, install and/or maintain an object or object(s), shall include:
- a) A drawing to scale which precisely describes the limits of that portion of the sidewalk or boulevard which the Applicant wishes to display merchandise;
  - b) Measurements of the sidewalk and building frontage;
  - c) Distance of the proposed display to the nearest sidewalk;
  - d) Obstructions (such as trees, poles, parking meters, benches, bus shelters, and bike racks); and
  - e) Location of your displays relative to the building;
  - f) A general description of the object(s) to be placed, constructed, installed or maintained on the sidewalk or boulevard and contain a drawing or picture of the proposed display units including:
    - i. Appearance;
    - ii. Dimensions (height, width, and length); and
    - iii. Locking wheels (if applicable)
- 3.3 All Merchandise Display requests shall specify the duration and length during the year the Permit is being requested by the Applicant.
- 3.4 All Application Forms shall be accompanied with proof of insurance in the amount of \$2,000,000.

#### **4.0 SMALL SIDEWALK PATIOS**

- 4.1 Small Patio Display Permit requests shall be submitted in accordance with this By-law and on the prescribed Application Form attached hereto as Schedule "D" to the Municipality and all other material and information as is required by this By-law.
- 4.2 Every request for a Small Patio Display Permit in accordance with this By-law to place, install and/or maintain table(s) and chair(s), shall include:
- a) a drawing to scale which precisely describes the limits of that portion of the sidewalk or boulevard which the Applicant wishes to place, install and/or maintain a small patio as defined within this By-law.
  - b) Provide written consent of the Building Owner if the applicant is a tenant and leaseholder;
  - c) contain a description of the exact number of tables and chairs to be placed within the patio and the exact location of same with a maximum of 2 (two) tables and 6 (six) chairs;
- 4.3 All Application Forms shall be accompanied with proof of insurance in the amount of \$2,000,000.

#### **5.0 PROVISIONS**

- 5.1 Every Permit issued pursuant to this By-law to place merchandise, goods, table(s) or chair(s) and other similar items (hereinafter referred to as "goods") on a sidewalk shall be subject to the following conditions:
- a) The "goods" proposed to be placed on the sidewalk or boulevard must directly relate to the commercial establishment abutting that portion of the sidewalk or boulevard upon which such "goods" are to be displayed;
  - b) All such "goods" shall be removed upon closing of the commercial establishment each day;
  - c) A minimum requirement of 5ft (1.5 meters) for pedestrian traffic and a 2ft (0.6 meters) Safety Zone from the edge of the curb or any such greater amount as the Town of Cobourg in its sole and absolute discretion may require.
- 5.2 Clearance of at least 1.5 meters from any fire hydrant or fire hydrant valve in compliance with the by-law to provide for the regulation of water supply in the Town of Cobourg ("Water Conservation By-law").
- 5.3 Notwithstanding anything in this By-law to the contrary, the display of merchandise and small patios shall only be permitted in that portion of the Municipality zoned "MC-Main Central Commercial" as set out in the Municipality's Comprehensive Zoning By-law as amended from time to time and outlines in the Map attached to this by-law as Schedule "A".

## **6.0 APPROVAL**

- 6.1 The approval authority for the processing of a Permit is the Legislative Services Department. The Municipal Clerk or designate will approve all applications for a permit in accordance with this By-law where the following approvals and reports are necessary:
- a) the Applicant has complied with all of the requirements of this By-law including Schedule "A" hereto;
  - b) approval from the Public Works Department advising that the issuance of the requested Permit would not unduly obstruct vehicular or pedestrian traffic or sight-lines, and the minimum required distances as set out in the By-law are kept clear and each Applicant is in compliance;
  - c) approval from the Town of Cobourg Fire Service indicating that the proposed use complies with all applicable standards and regulations;
  - d) approval from the Planning Department indicating that the proposed use complies with all applicable provisions of the Comprehensive Zoning By-law;
  - e) approval from the Building Department that the addition of the seats resulting from the temporary small patio does not exceed the number of seats permitted on the approved Occupancy Permit.
- 6.2 The proposed use for which the Permit is to be used shall not be in contravention of any Municipal By-law, Provincial or Federal statute, regulation or policy.
- 6.3 The Municipal Clerk or designate shall not approve the application for a permit, and can revoke the permit if the applicant or permit holder is unable to satisfy the requirements of this By-law and shall notify the Applicant or Permit Holder of the decision.

## **7.0 APPEAL**

- 7.1 If the Applicant or Permit Holder wishes to appeal the decision of the Municipal Clerk or designate, the Applicant shall have the right to request a hearing before the Hearing Committee and the Municipal Clerk shall refer the matter to a hearing, and schedule a hearing date thirty (30) days from the time the appeal was requested.
- 7.2 The written notice to be given under subsection (a) shall:
- i) set out the grounds for the recommendation;
  - ii) give reasonable particulars of the grounds;
  - iii) be signed by the Municipal Clerk;
  - iv) inform the Applicant or Permit holder that he or she is entitled to a hearing before the Council if he or she delivers within seven days after the date of service of the written notice a written request for a hearing before the Council.

- 7.3 The provisions of the *Statutory Powers Procedure Act, R.S.O. 1990, c.S.22* as amended shall apply to all hearings conducted by the Council under Section 8.2 of this By-law.
- 7.4 Where the Applicant or Permit holder who has been given written notice of the hearing does not attend at the appointed time and place, the Municipal Council may proceed with the hearing in his or her absence and the Applicant or Permit holder shall not be entitled to any further notice of the proceedings.
- 7.5 After the conclusion of the hearing, the Municipal Council shall as soon thereafter as is reasonably practical, make its final decision and shall give reasons in writing therefore; if requested by the Applicant or Permit holder. Notice of the decision of Council shall be sent in accordance with the provisions of Section 18 of the *Statutory Powers Procedure Act, R.S.O. 1990, c.S.22* as amended.

## 8.0 PENALTY

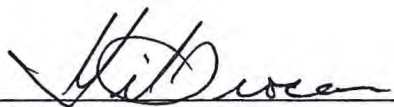
- 8.1 Notwithstanding anything in this By-law to the contrary, the Council of the Municipality in its sole and absolute discretion, may at any time revoke any Permit issued pursuant to this By-law under the following circumstances:
- a) Where the Council of the, Municipality determines in its sole and absolute discretion that the Subject Area is required for any other municipal purpose; or
  - b) Where the Council of the Municipality determines in its sole and absolute discretion that the use of the Subject Area for the purposes set out in this Permit has resulted or will or may result in an unsafe situation notwithstanding the prior review and approval of the Permit by the Municipality, its employees and other agencies.
- 8.2 Any person who contravenes any provision of this By-law shall upon being notified of such contravention by the Municipality, take the action specified in the notice within the time period specified in the notice, failing which the Municipality is hereby directed and authorized, in addition to any other remedy available at law to the Municipality, to take such action as is required at the said person's expense and if the said person fails to reimburse the Municipality for such expenses within thirty (30) days of written demand, the Municipality shall be entitled to recover the expense incurred in raking such action in like manner as taxes.
- 8.3 If any provision or requirement of this By-law or the application thereof 'to any person shall to any extent be held to be invalid or unenforceable, the remainder of this By-law or the application of such provision or requirement to all persons other than those to which it is held to be invalid or unenforceable, shall not be affected thereby and it is hereby declared to be the intention of Council that each provision and requirement of this By-law shall be separately valid and enforceable to the fullest extent permitted by law.
- 8.4 Every person who causes of permits or allows any contravention of this By-law is guilty of an offence and is liable upon conviction to such penalty as is authorized by the provisions of the Provincial Offences Act, R.S.O. 1990, c.P.33.

9.0 The following By-laws are hereby repealed:

By-law No. 62-95; and  
By-law No. 097-2006

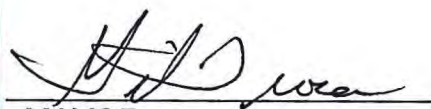
10.0 This By-law shall come into force and take effect upon final passing thereof.

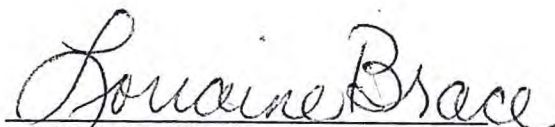
READ a first and second time in Open Council this 11<sup>th</sup> day of April, 2016

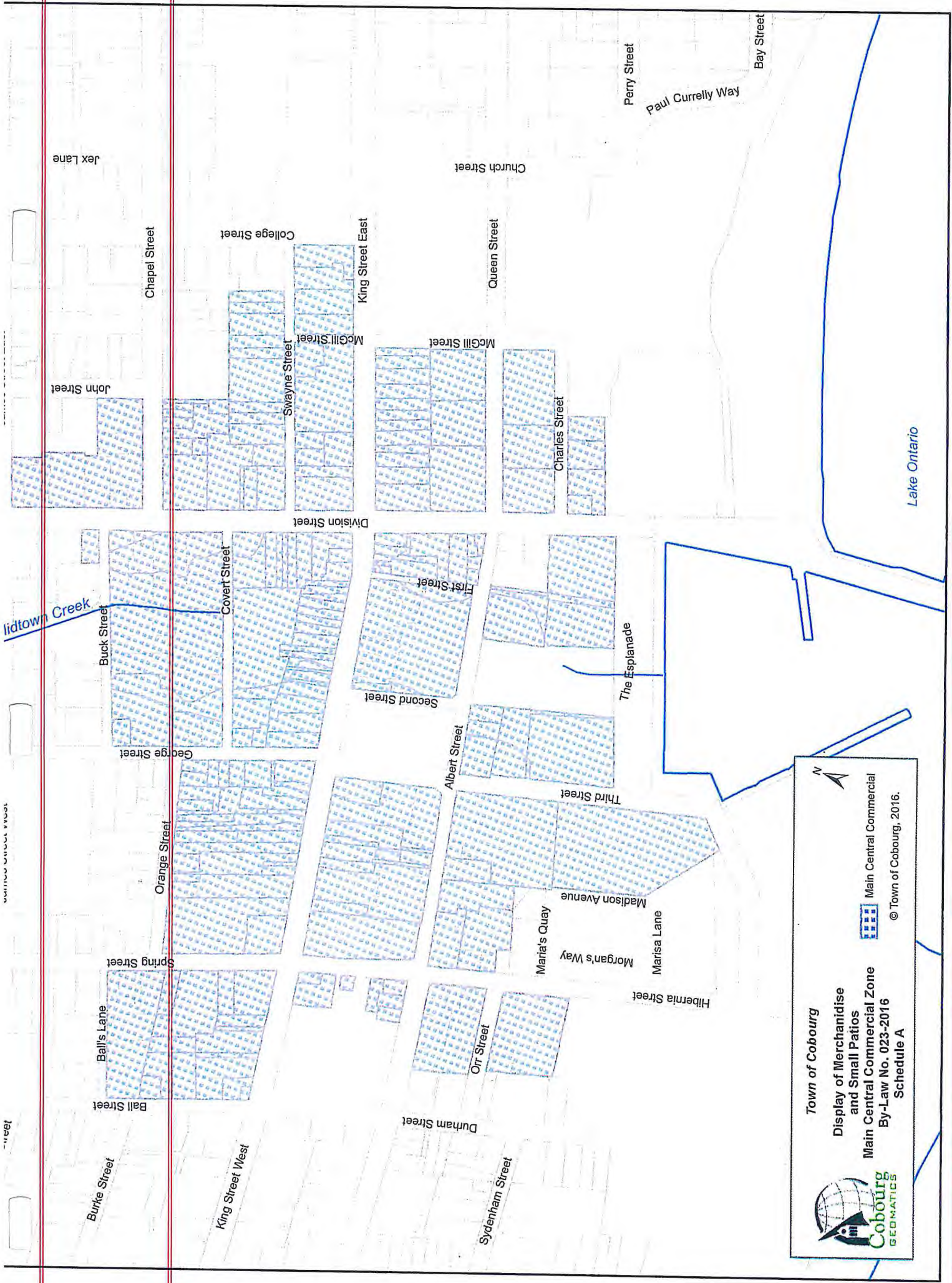
  
MAYOR


  
MUNICIPAL CLERK


READ a third time in Open Council and finally passed this 5<sup>th</sup> day of May, 2016,

  
MAYOR

  
MUNICIPAL CLERK



  
**Town of Cobourg**  
 Display of Merchandise  
 and Small Patios  
 Main Central Commercial Zone  
 By-Law No. 023-2016  
 Schedule A

 Main Central Commercial  
 © Town of Cobourg, 2016.

