

CORPORATION OF THE TOWN OF RENFREW  
BY-LAW NO. 32-2021

---

Being a By-law to authorize the Mayor and Clerk to execute an Encroachment Agreement with the CoCo Jarry's Restaurant in relation to the use of a portion of the public highway known as Raglan Street South.

WHEREAS the Municipal Act, 2001, S.O. 2001, c.25, provides that a municipality may pass by-laws within the following spheres of jurisdiction: Highways, including parking and traffic on highways at section 11(3) 1; Culture, parks, recreation and heritage at section 11(3) 5 and Structures, including fences and signs at section 11(3) 7; and

WHEREAS section 8 (1) of the Municipal Act, 2001 provides that sections 8 and 11 shall be interpreted broadly so as to confer broad authority on municipalities to (a) enable them to govern their affairs as they consider appropriate, and (b) enhance their ability to respond to municipal issues; and

WHEREAS the Owner of CoCo Jarry's Restaurant (hereinafter called the "LICENSEE") has applied to the Council of the Corporation of the Town of Renfrew to permit the use of a portion of the public highway known as Raglan Street South.

AND WHEREAS the Council of the Corporation of the Town of Renfrew has agreed to grant such permission on certain terms and conditions;

NOW THEREFORE the Council of the Corporation of the Town of Renfrew enacts as follows:

1. THAT permission be granted to the Licensee to encroach upon that portion of the property as identified in the attached agreement, whereas lands may be used on a temporary basis as an outdoor patio and subject to the execution of the Agreement with regards to the said encroachment, a copy of which Agreement is attached hereto and forms part of this By-law.
2. THAT the Mayor and Clerk be and are hereby authorized to execute an Encroachment Agreement with CoCo Jarry's Restaurant, in the form as set out in Appendix "A" attached hereto.
3. THAT this By-law shall take effect and come into force immediately upon the passage thereof.

Read a first and second time this 11<sup>th</sup> day of May, 2021.

Read a third and final time this 11<sup>th</sup> day of May, 2021.

---

Don Eady, Mayor

---

Kim R. Bulmer, Clerk

**APPENDIX "A" TO BY-LAW NO. 32-2021**

**BETWEEN:** COCO JARRY'S RESTAURANT

HEREINAFTER CALLED THE "LICENSEE"  
OF THE FIRST PART

**AND:** THE CORPORATION OF THE TOWN OF  
RENFREW

HEREINAFTER CALLED THE "TOWN"  
OF THE SECOND PART

**WHEREAS** the Licensee is the registered owner of CoCo Jarry's Restaurant located at 314 Raglan Street South, Renfrew;

**AND WHEREAS** the Licensee has requested permission to use a portion of the public highway known as Raglan Street South, (hereinafter referred to as "the Land"), in the Town of Renfrew, for the use of an outdoor patio, in strict accordance with the approved Encroachment agreement;

**AND WHEREAS** the Council of the Corporation of the Town of Renfrew deems it expedient to permit this Encroachment to exist without charge, at the pleasure of Council;

**NOW THEREFORE** in consideration of the premises and mutual agreements contained herein, the parties hereby covenant and agree that subject to the terms and conditions stipulated herein, the Town grants to the Licensee the use of a portion of public highway known as Raglan Street South in front of the premises known municipally as 314 Raglan Street South.

It is agreed that the Town shall allow the Encroachment by the Licensee upon the following terms:

**1. GENERAL CONDITIONS**

- a) It is understood and agreed that development of the lands affected by this Agreement shall be governed by the Agreement and attached Schedules. It is understood and agreed that written approval of the Town, in a form determined solely by the Town, is required prior to any departure from the specifications of the said Schedules being undertaken.
- b) The Licensee shall not commence or permit the commencement of any structure before the execution by the Licensee and the Town of this agreement.
- c) The Licensee acknowledges and agrees that failure to comply with any term or condition herein may result in the Town taking such action to enforce compliance, as deemed appropriate by the Town.
- d) The Licensee shall have the use of a portion of the public highway known as Raglan Street South in strict accordance with this agreement from April 15<sup>th</sup> until September 30<sup>th</sup>. The Licensee shall

not have use of the portion of the public highway until such time as all the snow has been removed from within the encroachment.

- e) The Licensee shall have all material removed from the Encroachment on or before September 30<sup>th</sup>. The Licensee shall be permitted to submit a request for the Town to consider the extension in the length of time the patio may remain within the Encroachment. The decision to permit the said extension will be at the sole discretion of the Council of the Corporation of the Town of Renfrew.
- f) The Licensee shall enter into an agreement each calendar year in order to permit the Encroachment of the outdoor patio and walkway.
- g) Notwithstanding any other clause in this Agreement, permission to maintain the said Encroachment shall be terminated upon the Town giving thirty (30) days written notice to the Licensee that the lands occupied by the Encroachment are required for municipal purposes. The Licensee shall restore the Town property occupied by the Encroachment to the satisfaction of the Town at the Licensee's expense.
- h) The Licensee shall ensure that the patio does not extend beyond the frontage of the restaurant. The Licensee shall be permitted to submit a request and letter of support from an adjacent property owner and tenant in order for the Town to consider the extension of the patio beyond the frontage of the restaurant. The decision to permit the said extension will be at the sole discretion of the Council of the Corporation of the Town of Renfrew.
- i) If required, the Owner shall at its own cost submit to the Alcohol and Gaming Commission and/or the Liquor Control Board of Ontario for approval and shall be responsible for obtaining any subsequent approvals from the Gaming Commission and/or the Liquor Control Board of Ontario.
- j) The Licensee understands and agrees that written authority of the Town shall be obtained prior to any alterations being made which would in any way represent a departure from the specifications detailed in the said Schedules. It is also understood and agreed that failure to comply with any term or condition contained herein or with the Schedules attached hereto, the approval inherent herein will become null and void and in which case the Licensee hereby agrees to cease all work on the herein described lands, immediately on receipt of notice by the Town, until such time as written authority is obtained from the Town to proceed.
- k) The Licensee agrees to comply in all respects with the provisions of the Town's *Downtown Seasonal Encroachment Guidelines* policy. The Licensee acknowledges and agrees that no approval granted by this agreement, whether actual or implied, shall supersede the requirements of the said policy, and that compliance with the policy shall be continuous throughout the term of the encroachment.
- l) This Agreement shall be binding upon and enure to the benefit of the parties to this Agreement and their respective heirs, executors, administrators, successors and assigns.

## **2. BUILDING AND PLANNING REQUIREMENTS**

- a) The Encroachment shall be installed as shown in Schedule "A" to this Agreement.

- b) The Encroachment shall only be used as an outdoor patio and walkway for the restaurant located at 314 Raglan Street South.
- c) The Licensee covenants and agrees to satisfy all conditions of approval and abide by all municipal by-laws, statutes and regulations.
- d) All exterior lighting shall be directed to shine down and away from abutting residential zones and public highways.
- e) All areas landscaped shall be maintained by regular cutting and, shall present and maintain a neat, clean, and orderly appearance.
- f) The Licensee shall ensure that a minimum of one metre clear path is maintained to the door of the restaurant at all times.
- g) Upon completion of the Work, the licensee shall contact the Department of Development and Works in order to conduct a site inspection to determine the conformity of the completed Work. The Licensee shall make the necessary modifications as deemed required by the Department in order to meet the terms of this Agreement.
- h) The Licensee shall be responsible for the construction, provision and maintenance of the detours required and for maintaining safety measures for the protection of the public during the construction of any work in respect to an installation. Traffic control shall be carried out in accordance with Book 7 of the latest edition of the Ontario Traffic Manual.
- i) The Licensee is advised that erection of the patio shall not take place until the restrictions related to the closure of businesses as a result of COVID-19 are lifted by the province.
- j) The Licensee agrees that should the province reinstate restrictions on the operation of businesses, the owner will cease all operation of the patio until permitted to reopen.
- k) The Licensee shall comply with all operating requirements from the Health Unit and the Province in respect of the COVID-19 emergency. The Licensee acknowledges that the patio encroachment permitted by this by-law and agreement shall in no way be construed as confirmation of compliance with the aforementioned requirements, and that should compliance not be possible, the applicant may be required to amend their encroachment pursuant to the terms of this agreement.

### **3. REPAIRS AND MAINTENANCE**

- a) The Licensee shall immediately remove at its expense any debris deposited on the portion of the public highway used for the Encroachment which debris has been deposited as a consequence of any actions carried out under the terms of this Agreement.
- b) The Licensee shall ensure that all litter or garbage that is attributed to the outdoor patio and walkway operations is cleaned up at the end of each business day.
- c) The Licensee shall not do or permit to be done to Town property anything which may constitute a nuisance, cause physical damage to the property, or cause injury or annoyance to occupants of neighboring premises, as determined by the Town.

- d) The Licensee covenants that during the term of this Agreement, he shall keep in good condition all Town property, including any alterations made thereto, and shall with or without notice, promptly make all necessary repairs/replacements, as determined by the Town.
- e) The Licensee shall immediately give written notice to the Town of any substantial damage that has occurred to Town property from any cause related to the Encroachment and extent of such use/occupation of the public highway by the Licensee.
- f) Where any public highway has been used for the provision of the said Encroachment and has been damaged by the Licensee or any employees or authorized agents of the Licensee as a result of such use, the Licensee shall restore or reconstruct it to its former state to the satisfaction of the Town.
- g) If maintenance of Town property or services is required, the Encroachment shall be removed temporarily at the Licensee's expense. The Licensee is advised that planned maintenance for the 2021 season may include, but shall not be limited to repairs to sidewalk deficiencies from the 2018 downtown reconstruction project.
- h) The Licensee shall ensure that all tables and chairs and all moveable fixtures shall be securely stored at the end of each business day.
- i) The Licensee shall permit the Town or a person authorized by it to enter onto the premises at any reasonable hour to conduct an inspection to determine compliance with the terms of this Agreement.

#### **4. MODIFICATIONS**

- a) If the Licensee, during the term of this Agreement, desires to make any alterations or changes to the conditions contained herein, the Licensee may do so provided that any proposed changes are approved in writing by the Town.
- b) Any proposed changes or alterations must comply with all applicable Ontario Building Code provisions, other provincial legislation, and municipal By-laws.
- c) Minor modifications made to this Encroachment Agreement may be approved without an amendment to this Agreement with the authorization of the Director of the Department of Development and Works.

#### **5. INSURANCE**

- a) The Licensee covenants and agrees to indemnify and save harmless the Town from and against all costs, charges, expenses, suits, claims, losses and damages arising out of any injury, personal claim or property damage occasioned by the said Encroachment or by any losses which the Town may sustain, incur or for which the Town may be liable in consequence of the said Encroachment and the granting of this Licence.
- b) The Licensee hereby covenants to place insurance on the said Encroachment in the joint names of the Town and the Licensee for public liability in the amount of not less than FIVE MILLION DOLLARS (\$5,000,000.00). The said insurance may be included in

the Licensee insurance of the Lands but must show the interest of the Town with respect to the public liability claims arising by reason of the said Encroachment on the Encroached Lands and the matters referred to in Paragraph 5 a) hereof.

- c) The Licensee hereby covenants and agrees to indemnify, remise, release and discharge the Town, its servants, agents and contractors, from all manner of actions, causes of action, suits, claims, costs, work, alteration or improvement of the property during the term of this Licence.
- d) The Licensee waives any claim against the Town for damages to the Encroachment resulting from the Town's activities within the road allowance
- e) The Licensee shall forward to the Town, prior to the signing of this Agreement by the Town, a Certificate of Liability Insurance. This Certificate of Insurance shall be signed by an authorized employee of the Insurance Company providing the insurance. Such insurance policy shall contain an endorsement to provide the Town and the Licensee with not less than thirty (30) days written notice of cancellation.

**IN WITNESS WHEREOF** the Licensee hereunto set his Hand and Seal or affixed its Seal duly attested to by its proper officers in that behalf.

**DATED AT THE \_\_\_\_\_ THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2021.**

**SIGNED, SEALED AND DELIVERED in the presence of:**

**COCO JARRY’S RESTAURANT**

\_\_\_\_\_

**Per:**

**Title:**

\_\_\_\_\_

**Per:**

**Title:**

***“I/We have the authority to bind the Corporation”***

**DATED AT THE TOWN OF RENFREW THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2021.**

**SIGNED, SEALED AND DELIVERED in the presence of:**

**THE CORPORATION OF THE TOWN  
OF RENFREW**

---

**Don Eady, Mayor**

---

**Kim R. Bulmer, Clerk**

Schedule "A"

Patio Location and Dimensions

