

**CORPORATION OF THE CITY OF KINGSTON**

**Ontario**

**BY-LAW NO. 2006-118**

**A BY-LAW RESPECTING THE KINGSTON PUBLIC MARKET**

**PASSED:** May 23, 2006

**As Amended By By-Law No:**

By-law No.  
By-law No. 2008-15

Passed on:  
December 18, 2007

***(Office Consolidation)***

City of Kingston By-law No. 2006-118  
A BY-LAW RESPECTING THE KINGSTON PUBLIC MARKET

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By-law No. 2006-118

A BY-LAW RESPECTING THE KINGSTON PUBLIC MARKET

PASSED: May 23, 2006

**WHEREAS** Section 113 of the Municipal Act, S.O. 2001, c. M.25 authorizes local councils to pass by-laws to establish, maintain and operate markets;

**AND WHEREAS** a by-law passed under the authority of this Section may provide for charging market fees to vendors in a market established by Council and may also provide to regulate the hours of a market;

1. Kingston's Market Square is a community resource which reflects the heritage of Kingston and serves as a source of civic pride for present and future generations.
2. The City of Kingston is committed to the preservation of a Kingston Public Market that makes available to Kingston and its visitors, in a heritage setting, produce grown by area farmers and crafts produced by local artisans.
3. Respect for the long history of one of Canada's great historical markets and its continuous use as a meeting place and center of commerce will continue to underlie all future market area decisions.

**NOW THEREFORE** the Council of The Corporation of the City of Kingston hereby repeals the provisions of By-Law No. 20, enacted February 2, 1993, and all amendments thereto; and enacts By-Law No. 2006-118 as follows:

**1. KINGSTON PUBLIC MARKET**

The Kingston Public Market of the City of Kingston shall be as set out in Schedule "A".

The design of the Kingston Public Market of City Hall shall be as shown on the sketch attached hereto and forming part of this By-Law as Schedule "A", entitled "Layout of Market Square".

**2. DEFINITIONS**

In this By-Law:

- 1) "**Administrative Policies Committee**" means the Administrative Policies Committee designated by Council or, in the event of organizational changes, another Committee designated by Council to carry out the Committee's responsibilities for appeals.
- 2) "**Agriproduct**" means a raw or processed product of an agricultural crop, industry or enterprise;

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- 3) **"Building & Licensing Department"** and **"Department"** means the Licensing & Enforcement Division, Department of Community Development Services Group, or, in the event of organizational changes, another unit designated by Council to carry out the Department's responsibilities for the administration and enforcement of this By-Law;
- 4) **"By-Law Officer"** means a person appointed by the Council of the City of Kingston as a Municipal Law Enforcement Officer to enforce the provisions of the By-Law;
- 5) **"City"** means the City of Kingston;
- 6) **"Corporation"** means The Corporation of the City of Kingston;
- 7) **"Council"** means the Council of The Corporation of the City of Kingston;
- 8) **"Craft Producer"** means a vendor who creates their own crafts from raw or basic materials and shall include artists in all media;
- 9) **"Daily Permit"** means the permit issued to a person to occupy a stall for one day;
- 10) **"Deputy Market Clerk"** means the person designated by the Manager of Licensing & Enforcement;
- 11) **"Farmer"** means a vendor who grows 80% or more of their product;
- 12) **"Craft"** means a product which is initiated and controlled by one person. No mass-manufactured items will be allowed;
- 13) **"Jury"** shall mean the Kingston Public Market Jury established by the Manager of Licensing & Enforcement;
- 14) **"Lease"** means the lease issued to a person to occupy a stall for a specific period of time;
- 15) **"Leaves of Absence"** means a leave that is required as the result of health problems or uncontrollable circumstances;
- 16) **"Lessee"** means the craft vendor, produce grower or produce vendor to whom the lease is issued;
- 17) **"Market Clerk"** means the person designated by the Manager of Licensing & Enforcement to manage the Kingston Public Market;
- 18) **"Market Day"** means the following days of market operations
  - a) PRODUCE AND CRAFT - Tuesday, Thursday, Saturday;
  - b) ANTIQUES, PRODUCE AND CRAFT - Sunday;
- 19) **"Market Season"** means:
  - i) PRODUCE January 1 to December 31;
  - ii) CRAFT January 1 to December 31;
  - lii) ANTIQUES April 1 to October 31;
- 20) **"Material"** includes tables, chairs, equipment, canopy, frame and cover, packaging material, garbage or any other things connected with the use of the stall;

- 21) "Person" means a human being of the male or female gender and includes not only an individual, but also a partnership and/or body corporate;
- 22) "Produce Vendor" means a vendor who grows some of their products and/or buys produce either locally or from wholesalers;
- 23) "Producer" means a vendor who produces their product;
- 24) "Sabbaticals" means a leave which has been requested for reasons other than health problems or uncontrollable circumstances;
- 25) "Seniority" means the number of consecutive years produce and craft vendors have held a lease for the Kingston Public Market;
- 26) "Stall Holder" means a vendor who has entered into a lease agreement with the Corporation and to whom the Market Clerk has assigned a stall; or a vendor who has received a daily permit from the Corporation and to whom the Market Clerk has assigned a stall;
- 27) "Stall" means the area of the Kingston Public Market assigned to a stall holder;
- 28) "Special Events" means any program or civic event which has been approved by the City of Kingston to be held in the Market Square;
- 29) "Waste" means paper, bottles, broken glass, cans, rags, garbage, rubbish, debris or refuse of any kind;

### **3. ADMINISTRATION**

1. The Building & Licensing Department is responsible for the administration and enforcement of this By-Law.
2. Every application for a new lease or a renewal lease shall be submitted to the Manager of Licensing & Enforcement in the form provided.
3. Every application for a lease will be reviewed to determine whether it meets all of the general regulations set out in the appropriate schedule.
4. Every vendor entering into a lease or obtaining a daily permit for a stall shall pay the fees prescribed in by-law 2005-10, as amended.  
(By-law No. 2005-10; 2008-15)
5. Any fee relating to by-law 2006-118 a by-law respecting the Kingston Public Market shall be prescribed by the provisions of by-law 2005-10, as amended.  
(By-law No. 2005-10; 2008-15)
6. If it is determined that an application does not meet the requirements of this By-Law, the Department will refuse to issue a lease and will refund the lease fee.

7. If, at any time, the Department determines that the operation of a leased stall does not conform to the requirements of this By-Law or the lease issued under this By-Law, it may terminate the lease.
8. A person whose application for a lease or renewal of a lease has been refused, or a person whose lease has been terminated may, within fifteen days of being notified of the Department's decision, apply to the Administrative Policies Committee for a review of the decision.
9. A person who has applied for a review of the Department's decision may make written representations and/or appear before the Administrative Policies Committee when it reviews the matter.
10. The Administrative Policies Committee will review the matter and may affirm the decision of the Department or direct it to issue, renew or reinstate the lease.
11. Decisions of the Administrative Policies Committee are final.

#### **4.0 GENERAL REGULATIONS:**

- 4.1 This By-Law regulates use of the Market Square for Market vendors only. Other civic events will be regulated by the Market Square policy.
- 4.2 A lease or daily permit shall be required for each separate stall.
- 4.3 Leases are not transferable.
- 4.4 Every lessee shall comply with: (1) every by-law of the City; (2) every provincial or federal Act and regulation made under such an Act; and (3) every instrument of a legislative nature made or issued under a provincial or federal Act or regulation.
- 4.5 No person shall sell, offer for sale or expose for sale any article or thing in the Kingston Public Market without first having obtained a lease or daily permit as provided for in this By-Law.
- 4.6 A Lessee shall display their stall card in a prominent place in their stall.
- 4.7 Every lessee shall allow, at any time, when approved by the Manager of Licensing & Enforcement, an authorized employee or agent of the City to inspect their stall, equipment and other property in the stall to determine whether the requirements of this By-Law are being complied with, and no person shall obstruct, hinder or otherwise interfere with such an inspection.

- 4.8 No lessee shall construct any permanent fixture or device within the Market Square
- 4.9 Every lessee shall maintain their stall and the immediate surrounding area in a clean, neat and sanitary condition and shall keep the stall free of waste.
- 4.10 No lessee shall interfere with or obstruct any other lessees or their customers.
- 4.11 No lessee or employee of a lessee shall discriminate in the carrying on of business against any member of the public on the basis of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, age, marital status, family status or disability.
- 4.12 No lessee shall sell, offer for sale, display, distribute or give any live animal, including any live bird, live fish or live reptile in the Kingston Public Market;
- 4.13 Lessees shall not be eligible for lease renewal if they did not achieve eighty (80%) percent attendance in their best three (3) months of the previous Market season.
- 4.14 Preference for new lessees will be given to persons who live within a one hundred (100) kilometer radius of the boundaries of the City.
- 4.15 If the Kingston Public Market is required for a civic event, the City shall give lessees one week's notice that they will not be permitted to occupy the Kingston Public Market, with the exception of routine or emergency maintenance.
- 4.16 The Kingston Public Market Jury shall review all crafts before the sale of such crafts is permitted at the Kingston Public Market. However, craft vendors whose work the Jury has previously approved and who have not significantly changed their product shall be exempt from the jurying process.
- 4.17 The composition and duties of the Kingston Public Market Jury shall be as set out in Schedule "E" attached to and forming part of this By-Law.
- 4.18 The Policy respecting sabbaticals and leaves of absences for lessees of the Kingston Public Market is hereby adopted and marked as Schedule "F" attached hereto and forming part of this By-Law. Market vendors who are on an approved sabbatical or leave of absence shall be eligible for stalls that have been vacated during their absence from the Market.
- 4.19 Stalls will be offered by seniority and based upon the applicant achieving the attendance requirements for the previous year.

4.20 Lessees shall maintain their vehicles, trailers and associated equipment, and shall take whatever precautions necessary to ensure that there is absolutely no fluid leakage on Market Square. Lessees shall also place a piece of cardboard or other material under the oil pan of the vehicle.

**5. SCHEDULES**

5.1 The following schedules are attached to and form part of this By-Law:

Schedule A – Market Layout

Schedule B - Market Days and Hours

Schedule C - Fees (repealed, see by-law 2005-10, as amended)

Schedule D – General Provisions for Lessees and Daily Permit Holders

Schedule E - Composition and Duties of the Kingston Public Market Jury

Schedule F - Sabbaticals and Leaves of Absence

(By-law No. 2006-118; 2008-15)

**6.0 OFFENCE AND PENALTY PROVISIONS:**

6.1 Any person who contravenes any provision of this By-Law is guilty of an offence and, upon conviction, is subject to a fine as provided in the Municipal Act, 2001 or the Provincial Offences Act and to any other applicable penalties

6.2 If this By-Law is contravened and a conviction entered, the court in which the conviction has been entered and any court of competent jurisdiction thereafter may, in addition to any other remedy and to any penalty that is imposed, make an order prohibiting the continuation or repetition of the offence by the person convicted.

**7.0 VALIDITY:**

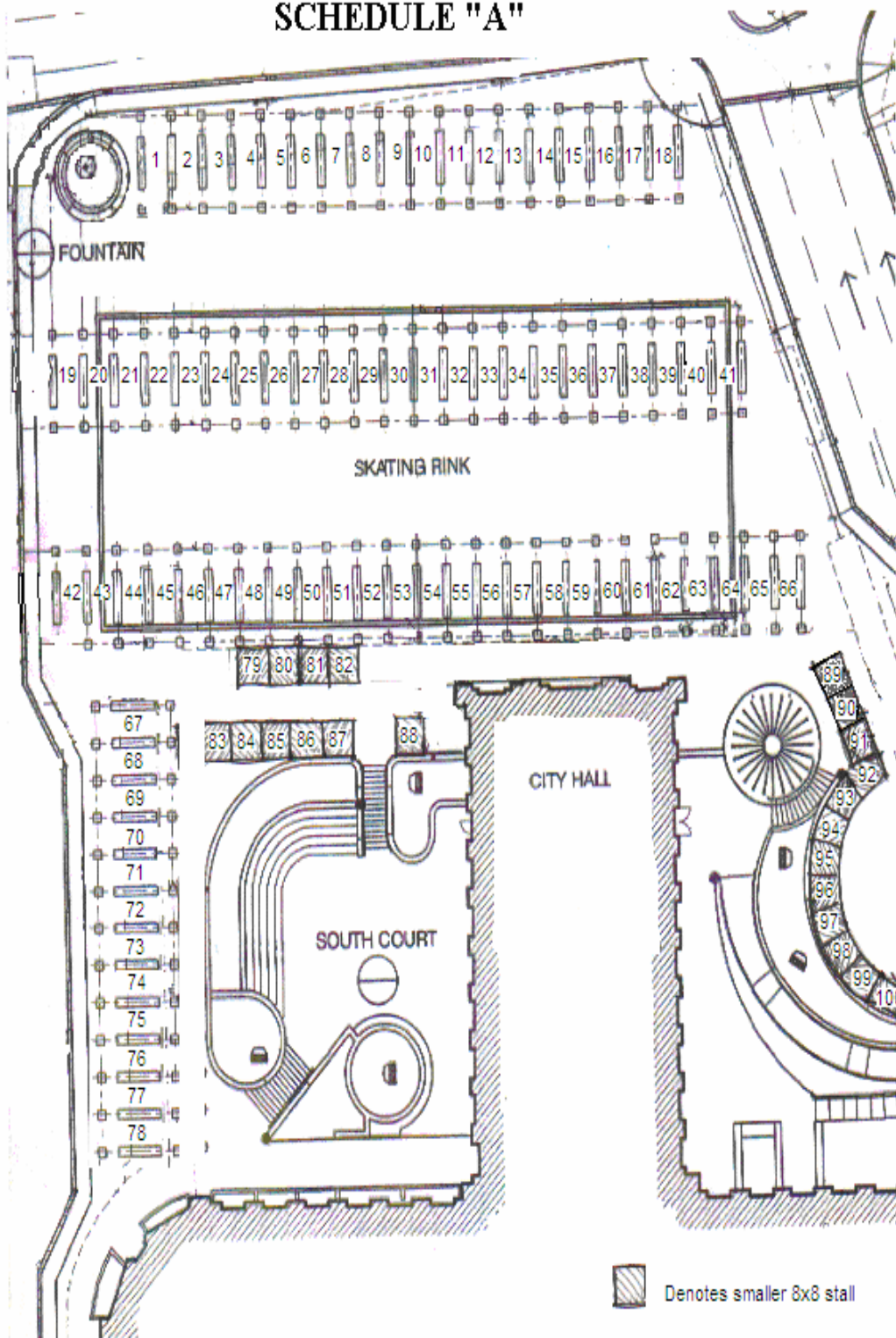
7.1 If a court of competent jurisdiction declares any provision, or any part of a provision, of this By-Law to be invalid, or to be of no force and effect, it is the intention of Council in enacting this By-Law that each and every provision of this By-Law authorized by law be applied and enforced in accordance with its terms to the extent possible according to law.

**8.0 COMMENCEMENT:**

8.1 This By-Law comes into force on November 1, 2006.

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### SCHEDULE "A"



Market layout from April 1st to October 31st

No Parking on stalls 79 to 100

Stall #88 - Community Stall

**SCHEDULE "B"****MARKET DAYS AND HOURS****1. MARKET HOURS**

- 1) Market stalls not occupied by a lessee by 8:15 a.m. during the months of June, July and August; and by 8:30 a.m. during the remaining months shall become available for daily rental by the Market Clerk up to 9:00 a.m. No person shall be permitted to set up after 9:00 a.m.; provided, however, that if a request is made to the Market Clerk prior to 9:00 a.m., the Market Clerk may permit a vendor to set up after 9:00 a.m. Any stalls available for daily rental will be assigned by the Deputy Market Clerk on a seniority basis of those in attendance at the time they become available.
- 2) The Market shall operate in accordance with this By-Law from 6:00 a.m. to 6:00 p.m., and stalls shall be vacated by 6:00 p.m. unless a permit has been specifically issued by the Market Clerk for operation beyond this period.

**2. MARKET DAYS**

- 1) Regular Market days shall be as defined in Section 2 of this By-Law.
- 2) Notwithstanding the provisions of the foregoing:
  - Craft vendors may operate on regular Market days in the produce area, provided space is available,
  - (a) during the months of October to April, produce lessees may offer for sale craft products. Craft products shall not occupy more than 20% of the display area of a produce stall and shall be subject to the recommendation of the Kingston Public Market Jury Committee.
  - (b) during the months of April to October inclusive, produce lessees may offer for sale craft products. Craft products made by the lessee shall occupy not more than 10% of the display area and shall be subject to the recommendation of the Kingston Public Market Jury

All stalls will be offered by availability and seniority between November 1 and March 31.

SCHEDULE "C"

KINGSTON PUBLIC MARKET

**NOTE: Schedule C of By-law No. 2006-188 is hereby repealed by By-law No. 2008-15 and replaced by the provisions of Schedule A of by-law 2005-10, as amended, being "A By-Law to Establish Fees and Charges to be Collected by the Corporation of the City of Kingston.**

(By-law No. 2006-118; 2008-15)

**SCHEDULE "D"****GENERAL PROVISIONS FOR LESSEES AND DAILY PERMIT HOLDERS****1. MARKET SALES**

- 1) No person shall sell, offer for sale or expose for sale any article or thing at the Kingston Public Market during the Market season and on Market days except the following:
  - (a) Agriproducts, as defined in this By-Law;
  - (b) Crafts, approved subject to Schedule "E" of this By-Law; and
  - (c) Antiques.
- 2) Section 1 (1) of this schedule shall not apply from November 1 to March 31<sup>st</sup>.
- 3) Craft vendors shall be permitted to lease a maximum of one (1) stall in the Market.
- 4) Craft stall areas shall be leased only to those persons who create and produce their own crafts and whose applications have been recommended by the Kingston Public Market Jury.
- 5) Craft stall applicants shall be required, when submitting their applications, to describe the product and how that product is made. This applies to both leaseholders and daily vendors.

**2. MOVING**

- 1) If a produce stall becomes available at 7a.m., a produce vendor who is in attendance may request to relocate to that stall at no additional cost. Should there be no produce vendor who wishes to move, then it can be offered to a craft vendor. If more than one produce vendor wishes to relocate to a specific stall, the space shall be assigned on the basis of seniority.
- 2) If a craft stall becomes available at 7a.m., a craft vendor who is in attendance may request to relocate to that stall at no additional cost. If more than one craft vendor wishes to relocate to a specific stall, the space shall be assigned on the basis of seniority.
- 3) The Deputy Market Clerk has the right to reassign stalls to improve the compatibility and appearance of the Market, and to assure that no vendor is isolated.

**3. MISCELLANEOUS**

The Sunday Antique Market shall be permitted to regulate and govern its individual leases

***SCHEDULE "D" cont'd:******GENERAL PROVISIONS FOR LESSEES AND DAILY PERMIT HOLDERS***

No sidewalks shall be obstructed by a lessee, a lessee's stall, awning or products;

- 1) Notwithstanding the provisions of Section 3.2, no adjustment will be required to an awning if the awning does not interfere with pedestrian and/or other traffic or adjacent stalls.

**4. PARKING**

Vendors are permitted to park their vehicles in their stall area ONLY when the area is being used as a sales area as designated in schedule "A". Any vehicle that will not fit on a double stall will not be permitted in any other location on the Market.

**5. RAIN CHECKS**

Rain checks will be given to any DAILY rental vendor who has paid the fee for the day and whom the weather forces off the Market prior to 11 a.m. Leaseholders who are forced off the Market during inclement weather or do not attend because of the weather (in Kingston at the Market) will not be penalized as to the attendance requirement.

**6. ATTENDANCE**

Leaseholders must inform the Deputy Market Clerk if they are not planning to attend the Market. Last minute problems, etc. that prevent attendance can now be relayed to the Deputy Market Clerk by telephone. (530-5932).

**7. STALL FOR COMMUNITY PURPOSES**

Notwithstanding any of the provisions of this By-Law, the stall for community purposes shall be marked as such on Schedule "A" attached hereto and shall be made available for community purposes on regular Market days. The stall so marked shall be available on a daily, first-come, first-served basis, subject to application being made in writing to the Market Clerk. Only one date per request for reservation shall be allocated. There will be six stalls available for Community purposes from November 1 to March 31.

**8. SALE OF ICE CREAM PRODUCTS**

The sale of ice cream products from mobile carts shall be allowed in the Kingston Public Market on regular Market days; provided, however, that such sales shall take place only from the two internal roadways between Brock Street and Market Street. The ice cream vendor shall not block internal vehicular traffic that is ongoing throughout Market days or interfere with any lessee's ability to do business.

**SCHEDULE "E"****COMPOSITION AND DUTIES OF THE  
KINGSTON PUBLIC MARKET JURY****Duties and Responsibilities**

1. All first-time applications for the sale of crafts shall be referred to the Jury for the purpose of ensuring that all craft vendors meet established criteria. A jurying fee shall be charged to each applicant at the time application is made.

(By-law No. 2006-118; 2008-15)

2. The Jury shall consist of three individuals, appointed by The Manager of Licensing & Enforcement, who are not Market vendors.
3. Jurors shall be chosen based on the following criteria:
  - experience in craft;
  - knowledge of craft techniques;
  - familiarity with the Kingston Public Market.
4. Administrative staff shall not sit on the Jury in a decision-making capacity; however, they may be present to advise and make recommendations to the Jury.
5. The applicant must be the designer and the creator of the product.
6. The applicant must be present in person for the jurying process.
7. Jurors will be compensated at a rate set by The Manager of Licensing & Enforcement.
8. Any person may appeal the decision of the Jury to the Manager of Licensing & Enforcement.

**SCHEDULE "F"**

**SABBATICALS AND LEAVES OF ABSENCE FOR LESSEES OF THE  
KINGSTON PUBLIC MARKET POLICY**

The Manager of Licensing & Enforcement has the authority to grant sabbaticals/leaves of absence for a period not to exceed twelve (12) months, providing that the affected space can be leased temporarily. Such requests will be governed by the following:

**Sabbaticals**

- 1) Requests for sabbaticals must be received in writing by the Manager of Licensing & Enforcement before February 1 of each year;
- 2) Requests should include the current vendor's stall number and a valid reason for the sabbatical;
- 3) A \$100.00 fee is required for each request, and must be submitted with the request;
- 4) The vendor must have proven in previous years to have satisfactorily met the requirements under the By-Law and lease;
- 5) The Licensing & Enforcement Manager will respond in writing within fifteen (15) working days, and will either approve or deny the request.

**Leaves of Absence**

- 1) Requests for leaves of absence must be received in writing by the Manager of Licensing & Enforcement;
- 2) Requests shall include the current vendor's stall number and a valid reason for the absence. In the case of a medical reason, a certificate from the attending physician is required;
- 3) A \$100.00 fee is required for each request, and must be submitted with the request;
- 4) The vendor must have proven in previous years to have satisfactorily met the requirements under the By-Law and lease;
- 5) The Manager of Licensing & Enforcement will respond in writing within fifteen (15) working days, and will either approve or deny the request.

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