

**Council Meeting Number 02-2024
Addendum Number 2
Tuesday, December 19, 2023**

Reports

The consent of Council is requested for the **addition** of Clause 4 to Report Number 06:
Received from the Chief Administrative Officer (Recommend).

4. Minor Amendments to the Kingston Public Market By-Law

That the first clause of the Recommendation in Report Number 24-044 be deleted and replaced with the following:

That the By-Law attached to Report Number 24-051, “A By-Law Respecting the Kingston Public Market”, be presented to Council for all three readings.

(See By-Law Number (95), 2024-109 attached to Addendum Number 2 as schedule pages 4-22)

(The Report of the Chief Administrative Officer (24-051) is attached to Addendum Number 2 as schedule pages 1-54)

Communications

The consent of Council is requested for the **addition** of Communication Number 02-76.

02-76 Correspondence received from Christine Sypnowich with respect to Farmers’ Market and Good Process, dated December 18, 2023.

(Distributed to all members of Council on December 18, 2023)

By-Laws

The consent of Council is requested for the **addition** of By-Law Number 95.

95) A By-Law Respecting the Kingston Public Market

Three Readings

Proposed Number 2024-109

(Clause 4, Report Number 06)



**City of Kingston
Report to Council
Report Number 24-051**

To: Mayor and Members of Council
From: Lanie Hurdle, Chief Administrative Officer
Resource Staff: None
Date of Meeting: December 19, 2023
Subject: Minor Amendments to the Kingston Public Market By-Law

Council Strategic Plan Alignment:

Theme: 4. Foster a Caring and Inclusive Community

Goal: 4.2 Help address food insecurity and sustainability.

Executive Summary:

This report is supplemental to Report Number 24-044 regarding approval of the Kingston Public Market. The by-law attached as Exhibit A to this report (Report Number 24-051) includes minor updates to the Kingston Public Market By-Law included with Report Number 24-044 based on feedback received by vendors.

This report and approval of the by-law are time sensitive since Loving Spoonful's notice provides an end of contract as of December 31, 2023. This by-law will ensure that there is an operational framework in place in January to support vendors active in the winter as well as planning for the Spring of 2024. The original by-law went through an engagement process and was presented at ARCP through [Report Number ARCP-21-007](#).

Recommendation:

That the first clause of the Recommendation in Report Number 24-044 be deleted and replaced with the following:

That the by-law attached to Report Number 24-051, "A By-Law Respecting the Kingston Public Market", be presented to Council for all three readings.

December 19, 2024

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Authorizing Signatures:

ORIGINAL SIGNED BY CHIEF

ADMINISTRATIVE OFFICER

**Lanie Hurdle, Chief
Administrative Officer**

Consultation with the following Members of the Corporate Management Team:

Paige Agnew, Commissioner, Growth & Development Services	Not required
Jennifer Campbell, Commissioner, Community Services	
Neil Carbone, Commissioner, Corporate Services	Not required
David Fell, President & CEO, Utilities Kingston	Not required
Peter Huigenbos, Commissioner, Major Projects & Strategic Initiatives	Not required
Brad Joyce, Commissioner, Infrastructure, Transportation & Emergency Services	Not required
Desirée Kennedy, Chief Financial Officer & City Treasurer	Not required

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Options/Discussion:

City staff received comments and feedback from a few vendors on the proposed by-law respecting the operations of the Kingston Public Market. This by-law was the same as the by-law that was approved by City Council in 2021 and implemented until 2023, at which time the public market was managed by Loving Spoonful.

The proposed changes are listed below:

1. Hours of operations - change from 7:30 am to 8:30 am for vendors to be at their stalls during June, July and August and from 8 am to 9 am for vendors to be at their stalls during other months of operations. This was raised as a concern for produce vendors that travel longer distances.
2. Cancellation, Postponement and Rainchecks (Section 6) - Remove the reference to "where possible" to provide vendors with more certainty that at least 4 weeks' notice would be provided unless exempted by City Council.

Contacts:

Lanie Hurdle, Chief Administrative Officer, 613-546-4291 extension 1231

Other City of Kingston Staff Consulted:

Tony Gargaro, Manager, Recreation Services, Recreation & Leisure Services

Jon Hayter, Supervisor, Special Events & Marketing, Recreation & Leisure Services

Exhibits Attached:

Exhibit A - A By-Law Respecting the Kingston Public Market

Exhibit B - Report Number ARCP-21-007 - Local Food Strategy and Amendments to the Kingston Public Market By-Law

City of Kingston By-Law Number 2024–XX
A By-Law Respecting the Kingston Public Market

1 st Reading	date
2 nd Reading	date
3 rd Reading	date
Passed	date

City of Kingston By-Law Number 2024-XX
A By-Law Respecting the Kingston Public Market

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Public Market By-Law

City of Kingston By-Law Number 2024-XX

A By-Law Respecting the Kingston Public Market

Whereas:

The *City* is a single-tier municipality incorporated pursuant to an order made under section 25.2 of the *Municipal Act, 2001*;

Subsection 5 (1) of the *Municipal Act, 2001* provides that the powers of a municipality must be exercised by its council;

Subsection 5 (3) of the *Municipal Act, 2001* provides that a municipal power must be exercised by by-law unless the municipality is specifically authorized to do otherwise;

Pursuant to subsection 10 (1) of the *Municipal Act, 2001*, a single tier municipality may provide any service or thing that the municipality considers necessary or desirable for the public; and

Pursuant to section 113 of the *Municipal Act, 2001*, a local municipality may establish, maintain and operate a farmers market, a flea market and other similar types of markets, and may regulate a farmers market, a flea market and other similar types of markets of any person including regulating the hours of operation of a market.

Therefore, Council enacts:

1 Interpretation

1.1 This by-law may be cited as the *Public Market By-Law*.

1.2 In this by-law:

"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 under this by-law;

"City" means The Corporation of the City of Kingston;

"Council" means the Council of the *City*;

"craft" means an item of decorative design and handicraft, or an item produced by hand and consisting of a one-of-a-kind or studio production work, and generally includes those items made with some degree of artistic purpose, but excludes mass-manufactured items;

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"**daily permit**" means a permit issued by the *City* to a *stall holder* pursuant to this by-law governing the *stall holder's* use and occupation of a *stall* for one day;

"**jury**" means the *market jury* established by the *manager* pursuant to Schedule D of this by-law;

"**licence agreement**" means the licence agreement entered into by the *City* and the *stall holder* pursuant to this by-law governing the *stall holder's* use and occupation of a *stall*;

"**manager**" means the Manager of Recreation & Leisure Services for the *City*, the *manager's* delegate, or, in the event of organizational changes, the manager of the appropriately titled department;

"**market**" means the City of Kingston public market located at Springer Market Square, as approximately shown on Schedule A;

"**market clerk**" means the *person* designated by the *manager* to manage the *market*;

"**market season**" means from January 1 to December 31 in each year;

"**Municipal Act, 2001**" means the *Municipal Act, 2001*, S.O. 2001, c.25;

"**person**" includes an individual, a corporation, a partnership, and an association;

"**producer**" means a *stall holder* who produces a minimum of 80% of their product;

"**Provincial Offences Act**" means the *Provincial Offences Act*, R.S.O. 1990, c. P.33;

"**re-seller**" means a *stall holder* who produces less than 80% of their product and/or buys their product either locally or from wholesalers;

"**stall**" means that portion of the *market* licensed by the *City* to a *stall holder* pursuant to a *daily permit* or *licence agreement*, as the case may be; and

"**stall holder(s)**" means a *person* who has entered into a *licence agreement* with the *City* for the use and occupation of a *stall*, or who has received a *daily permit* from the *City* for the use and occupation of a *stall*.

1.3 For the purposes of interpreting this by-law:

- (a) a reference to any legislation, regulation, or by-law or to a provision

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- thereof includes a reference to any legislation, regulation or by-law enacted, made or passed in substitution thereof or amendment thereof;
- (b) any reference to legislation or by-laws includes all of the regulations made thereunder; and
 - (c) “include”, “includes” and “including” indicate that the subsequent list is not exhaustive.
- 1.4 This by-law will not be interpreted as exempting any *person* from the requirement to comply with any other *City* by-law or federal or provincial legislation. In the event of conflict between the provisions of this by-law and any other *City* by-law, the more restrictive provision will apply.

2 Administration

- 2.1 The *manager* is responsible for the administration of this by-law.
- 2.2 Where this by-law provides that the *manager* may do an act, the *manager* may, when doing the act, seek and consider information or documents from any *person*, and may consult with other *City* employees, legal counsel, or other advisors, all as the *manager* considers necessary.
- 2.3 Where this by-law provides that the *manager* may do an act, it may be done by an individual authorized by the *manager* to do the act.
- 2.4 Every application for a new *licence agreement*, or a renewal of an existing *licence agreement*, must be submitted to the *manager* in the form provided.
- 2.5 Every application for a new *licence agreement*, or a renewal of an existing *licence agreement*, must be accompanied by the full licence fee, as set out in *City of Kingston By-Law Number 2005-10, “A By-Law to Establish Fees and Charges to be Collected by The Corporation of the City of Kingston”*, together with the jurying fee referred to in Schedule D, if applicable.
- 2.6 Despite subsection 2.5 of this by-law, a *producer* may request a 50% fee reduction in exchange for a bi-weekly donation to a local food program or organization that supports the most vulnerable populations in the community, subject to and in accordance with the terms of the *licence agreement*.
- 2.7 The *manager* will review each complete application and will grant or refuse to issue a *licence agreement* or *daily permit*, as the case may be, and will notify the applicant of its decision in writing.
- 2.8 All applications for a *craft stall* or the sale of *crafts* must include a detailed description of the *crafts* to be offered, as well as information on how the *crafts* are produced. All such applications are subject to the *jury* process described in Schedule D.

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- 2.9 A *person* whose application for a *licence agreement* or a renewal of a *licence agreement* has been refused, or a *person* whose *licence agreement* has been terminated may, within 15 days of being notified of the *City's* decision, submit an application to appeal to the *Administrative Policies Committee* for a review of the decision. A *person* whose application for a *daily permit* has been refused has no right of appeal and the decision of the *manager* is final.
- 2.10 On appeal, the *Administrative Policies Committee* has the power to affirm the decision of the *manager* to refuse or terminate the *licence agreement*, or to direct the *manager* to issue, renew or reinstate the *licence agreement*.
- 2.11 Decisions of the *Administrative Policies Committee* are final.

3 Application of By-Law and Prohibitions

- 3.1 This by-law applies to the use of the *market*. Non-*market* civic events held in Springer Market Square will be regulated by the *City of Kingston First Capital Place Policy*, the *City of Kingston Special Events Policy for City Parks and Facilities*, and all other applicable *City* policies.
- 3.2 No *person* will sell, offer for sale, display, distribute or hand out any item in, on or at the *market* without a valid *licence agreement* or a *daily permit* issued under the provisions of this by-law.
- 3.3 No *person* will knowingly submit an application for a *licence agreement* or *daily permit* that contains false, misleading or deceptive information.
- 3.4 No *stall holder* or employee of a *stall holder* will 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.
- 3.5 No *stall holder* may sell, offer for sale, display, distribute or give any live animal, including any live bird, live fish, or live reptile, at the *market*.

4 Licence Agreements and Daily Permits

- 4.1 Each *stall holder* is required to execute a *licence agreement* or to obtain a *daily permit* prior to accessing or using the *stall*. Each *licence agreement* and *daily permit* will contain the terms and conditions specified in this by-law, including the general provisions set out in Schedule C of this by-law, subject to any modifications or additional provisions which may be made to those general provisions as reasonably required by the *manager* and approved by the *City's* Director of Legal Services.
- 4.2 No *stall holder* will transfer or assign their *licence agreement* or *daily permit* or

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sublicence or allow any other *person* to occupy the *stall* without the prior written consent of the *manager*.

- 4.3 Every *stall holder* must comply with all applicable federal, provincial, and municipal laws and regulations governing the use and occupation of the *stall* and the operation of the *stall holder's* business at the *stall*.
- 4.4 A *stall holder* may request a temporary suspension of its obligations under the *licence agreement*, subject to and in accordance with Schedule E of this by-law.
- 4.5 All *stall holders* must display their *stall* card in a prominent place in their *stall* at all times.

5 Allocation of Stalls and Eligibility for Renewal

- 5.1 *Stalls* will be allocated to *stall holders* based on seniority and compliance with the attendance requirements set out in subsection 5.3 below, except between November 1 and March 31 inclusive, when *stalls* will be offered by availability and seniority. Seniority will be determined by the number of consecutive years that the *stall holder* has maintained a *stall* at the *market*.
- 5.2 In allocating *stalls* to new *stall holders*, preference will be given to *producers* who live within a 100-kilometre radius of the geographic boundaries of the City of Kingston.
- 5.3 In order to be eligible for renewal of a *licence agreement*, a *stall holder* must achieve 80% attendance at the *market*, during the days and at the times specified in Schedule B, in the *stall holder's* best three months of the previous *market season*, subject to subsection 5.4 below. For clarity, in calculating the 80% attendance threshold, inclement weather days, as determined by the *manager*, will be excluded.
- 5.4 Despite subsection 5.3, a *producer* is only required to maintain a minimum attendance of one day per week during the *producer's* best three months of the previous *market season* in order to be eligible for renewal of a *licence agreement*.

6 Cancellation, Postponement and Rainchecks

- 6.1 Any *licence agreement* or *daily permit* may be cancelled by the *manager* at any time for breach of any provision of the *licence agreement*, *daily permit*, or this by-law.
- 6.2 The *City* may, without notice, require the closure and/or vacation of the *market* at any time due to a real or perceived emergency. For purposes of this subsection 6.2, an emergency includes any public emergency, such as a pandemic and/or epidemic as deemed to be such by the *City* in its sole discretion.

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- 6.3 If the *market* is required by the *City* for a special event, including a program, filming activity or civic event approved by the *City*, the *manager* may, upon at least four weeks' notice to the *stall holders*, require the closure, vacation and/or postponement of the *market* on the days and at the times specified in the notice. Such notice will include any scheduled rain dates for the special event. In addition to the notice period, the following terms and conditions will be applicable in the case of a cancellation or postponement:
- (a) in the case of postponement, the *market* day will be rescheduled to the next available Friday, where reasonably possible;
 - (b) the *City* must display signage at the *market* announcing the cancellation/postponement for a period of at least one week prior to the cancellation/postponement;
 - (c) the *City* and Tourism Kingston must announce the cancellation/postponement on their websites and through social media channels.
- 6.4 Rain checks will only be offered to *daily permit* holders who have paid the daily fee, and who are required to vacate the *market* prior to 11:00 a.m. due to inclement weather. Rain checks will not be offered to *licence agreement* holders.

7 Jury

- 7.1 The composition and duties of the *jury* with respect to the sale of *crafts* at the *market* are set out in Schedule D of this by-law.

8 Schedules

- 8.1 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 – General Provisions for Stall Holders

Schedule D – Composition and Duties of the Jury

Schedule E – Requests for Temporary Absences

9 Inspection & Enforcement

- 9.1 The *manager*, the *market clerk*, and any authorized agent or employee of the *City*, has the right, at any time and from time to time, to inspect the *stalls*, and all property, equipment, products and fixtures in the *stalls*, to determine whether the requirements of this by-law are being complied with, and no *person* will obstruct,

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hinder or otherwise interfere with such an inspection.

10 Offences & Administrative Penalties

- 10.1 Every *person* is guilty of an offence as provided for in the *Provincial Offences Act* if the *person*:
- (a) contravenes any provision of this by-law;
 - (b) hinders, obstructs or interferes with the *manager* in the exercise of the *manager's* powers and duties; or
 - (c) hinders, obstructs or interferes with a *person* authorized by the *manager* to do an act in the exercise of that *person's* authority to do the act.
- 10.2 Every officer or director of a corporation who knowingly concurs in the contravention of any provision of this by-law is guilty of an offence as provided for in the *Provincial Offences Act*.
- 10.3 Every *person* who is convicted of an offence under this by-law is liable to a minimum fine of \$500 and to a maximum fine of \$100,000 pursuant to subsections 429 (1) and (3) of the *Municipal Act, 2001*.
- 10.4 A *person* who is convicted of an offence under this by-law is liable, for each day or part of a day that the offence continues, to a minimum fine of \$500 and a maximum fine of \$10,000, and the total of all daily fines for the offence is not limited to \$100,000 as provided for in section 429 of the *Municipal Act, 2001*.
- 10.5 When a *person* has been convicted of an offence under this by-law, the Ontario Court of Justice or any court of competent jurisdiction may, in addition to any other penalty imposed on the *person* convicted, make an order:
- (a) prohibiting the continuation or repetition of the offence by the *person* convicted; and
 - (b) requiring the *person* convicted to correct the contravention in the manner and within the period that the court considers appropriate.
- 10.6 The *City* may collect unpaid fines for a contravention of this by-law in accordance with the following:
- (a) the *City* treasurer may give notice that if any part of a fine for a contravention of this by-law remains unpaid after the fine becomes due and payable under section 66 of the *Provincial Offences Act*, including any extension of time for payment under section 66 or 66.0.1 of the *Provincial Offences Act*, the treasurer may give the *person* against whom the fine was imposed a written notice specifying the amount of the fine payable and the final date one which it is payable, which must be not less than 21 days after

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the date of the notice;

- (b) if the fine remains unpaid after the final date specified in the notice, the fine is deemed to be unpaid taxes for the purposes of section 351 of the *Municipal Act, 2001*.

11 General

- 11.1 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.
- 11.2 This by-law will come into force and take effect on the date it is passed.

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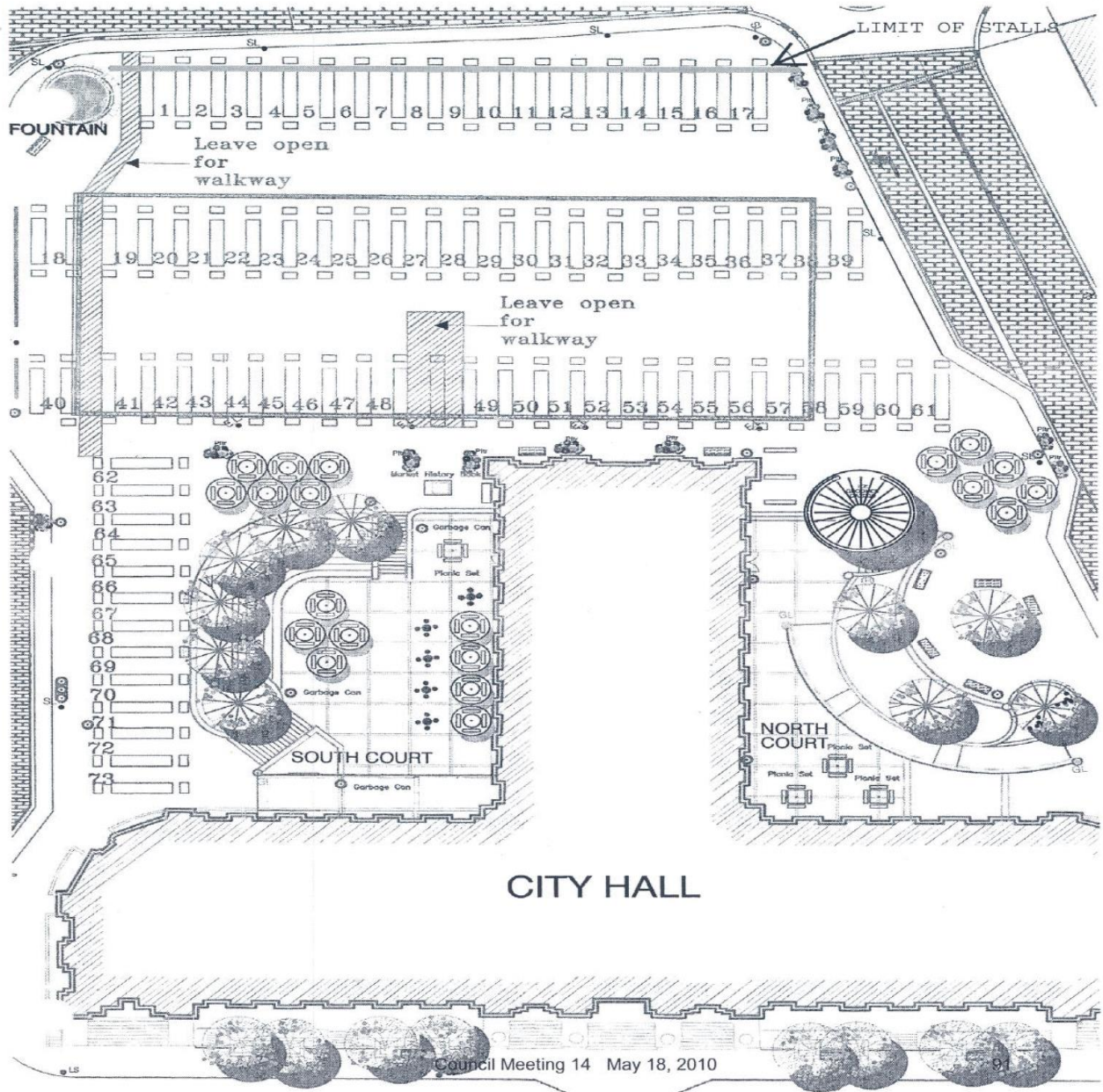
1 st Reading	date
2 nd Reading	date
3 rd Reading	date
Passed	date

Janet Jaynes
City Clerk

Bryan Paterson
Mayor

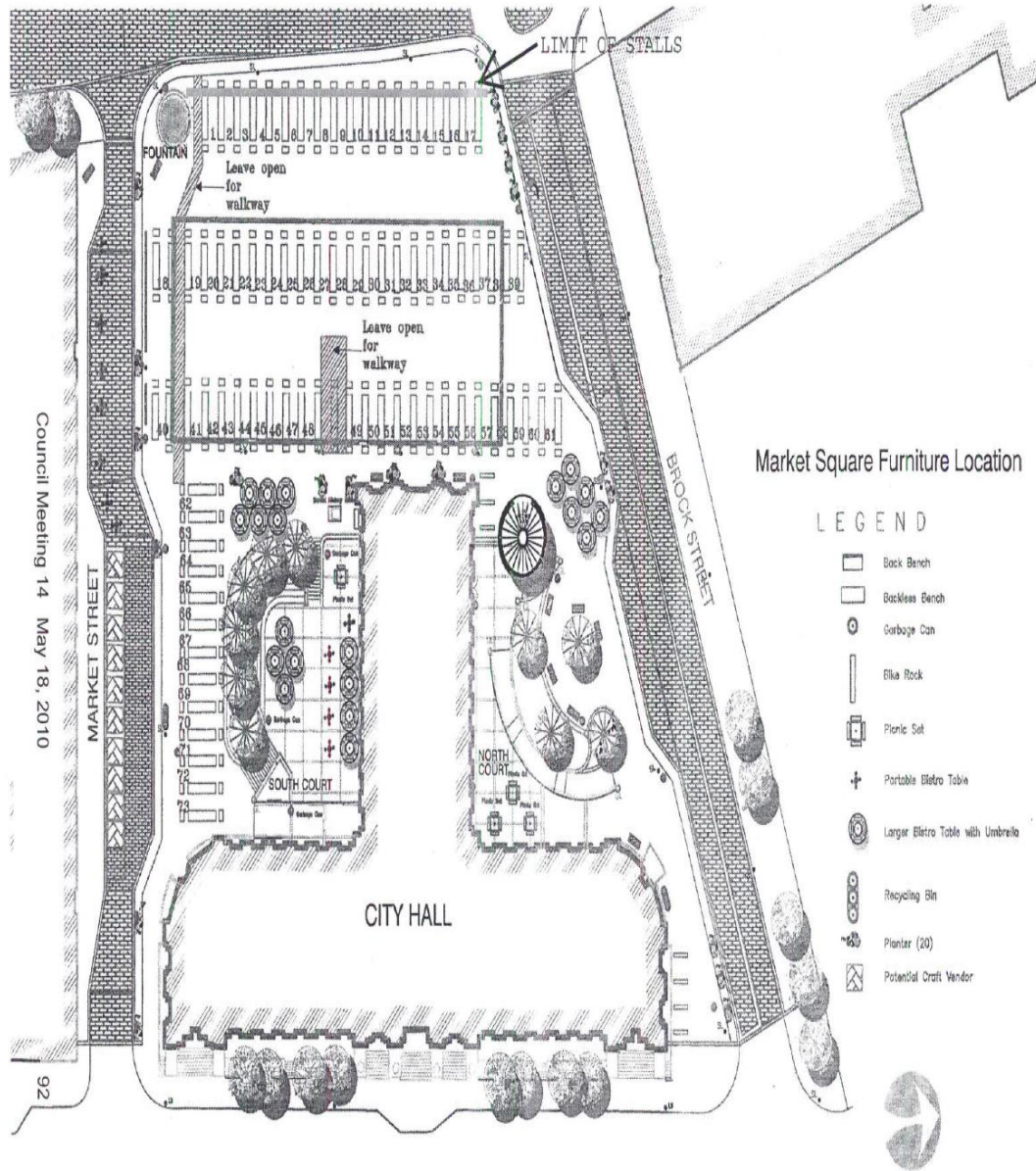
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Schedule A
Market Layout



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Schedule A Continued



Council Meeting 14 May 18, 2010

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Schedule B

Market Days and Hours

- 1) The *market* will run during the *market season* on the following days: Tuesday, Thursday, and Saturday.
- 2) The regular *market* operating hours are as follows:
 - a) 8:30 a.m. to 5:00 p.m. from April 1 to October 31; and
 - b) 9:00 a.m. to 5:00 p.m. from November 1 to March 31.
- 3) *Stall holders* must set-up their *stall* no earlier than 6:00 a.m. and no later than 8:30 a.m. on *market* days during the months of June, July and August, or by 9:00 a.m. during any other calendar month, unless otherwise authorized by the *market clerk*. All *stall holders* must vacate the *market* by no later than 6:00 p.m. each day.
- 4) If a *stall* remains unoccupied by 8:30 a.m. during the months of June, July and August, or by 9:00 a.m. during any other calendar month, the *market clerk* has the right to offer the *stall(s)* to the other *stall holders* in attendance for use on the subject day. Unoccupied *stalls* will be allocated based on seniority pursuant to subsection 5.1 of this by-law, subject to the following provisions:
 - a) if a *producer* or *re-seller stall* is unoccupied, a *producer* or *re-seller* who is in attendance may request to relocate to that *stall* at no additional cost. If no *producer* or *re-seller* requests to be relocated, or if more than one *producer* or *re-seller* requests to be relocated, the unoccupied *stall* will be allocated based on seniority in the manner described above; and
 - b) if a *craft stall* is unoccupied, a *craft stall holder* who is in attendance may request to relocate to that *stall* at no additional cost. If no *craft stall holder* requests to be relocated, or if more than one *craft stall holder* requests to be relocated, the unoccupied *stall* will be allocated based on seniority in the manner described above.
- 5) The *market clerk* may reassign *stalls* to improve the compatibility and appearance of the *market*, and to assure that no *stall holder* is isolated.
- 6) Despite the foregoing, *craft stall holders* may operate on regular *market* days in the produce area of the *market*, provided space is available.
- 7) During the months of April to October inclusive, *producers* and *re-sellers* may offer for sale *craft* products, provided that the *craft* products do not occupy more than 10% of the display area of the *stall*, and provided the *crafts* have been approved by the *jury* in accordance with Schedule D.

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- 8) During the months of November to March inclusive, *producers* and *re-sellers* may offer for sale *craft* products, provided that the *craft* products do not occupy more than 20% of the display area of the *stall*, and provided the *crafts* have been approved by the *jury* in accordance with Schedule D.

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Schedule C

General Provisions for Stall Holders

1. Market Sales

- 1) The *stall holder* will not use or permit the use of a *stall* for any purpose other than the following:
 - (a) the retail sale of raw or processed product of an agricultural crop, industry or enterprise, such as, by way of example, fruits and vegetables;
 - (b) food sampling in accordance with the provisions of the *Health Promotion and Protection Act*, R.S.O. 1990, c. H.7, and all public health regulations, rules and guidelines; and
 - (c) the retail sale of *crafts* approved pursuant to Schedule D of this by-law.
- 2) No *craft* vendor will occupy more than one *stall* in the *market*.

2. Attendance

Stall holders must use reasonable efforts to notify the *market clerk* in advance if the *stall holder* is unable to attend the *market* on a scheduled *market* day in accordance with the *market* hours set out in Schedule B.

3. Vehicles and Parking, No Obstructions

- 1) *Stall holders* are permitted to park their vehicles in their designated *stall* on regular *market* days, during the hours set out in Section 2 of Schedule B, so long as the *stall* is being actively operated for business.
- 2) *Stall holders* are only permitted to park their vehicles in their designated *stall*. Any vehicle that will not fit on a double *stall* will not be permitted in any other location on the *market*.
- 3) *Stall holders* must maintain their vehicles, trailers and associated equipment, and must take whatever precautions are necessary to ensure that there is no fluid leakage on the *market*, including placing cardboard or other materials under the oil pan of the vehicle. *Stall holders* must minimize vehicle idling at the *market* in accordance with the *City's* idling by-laws.
- 4) The *stall holder* will not obstruct and will not permit the obstruction of any sidewalks, including by way of placement of awnings, signs, fixtures or products. Awnings may be permitted to overhang onto a sidewalk if the *manager* determines that the awning does not interfere with pedestrian and/or other traffic or adjacent *stalls*.

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4. Operating Requirements

All *stall holders* must comply with the operating requirements set out in the *licence agreement* or *daily permit*, including all insurance, indemnification, maintenance, and cleaning requirements set out in the *licence agreement*.

5. Community Purpose Stalls

Despite the provisions of this by-law, one *stall* in the *market* will be reserved for community purposes on *market* days in a location designated by the *City*. During the period from November 1 to March 31 in each year, the *City* will reserve six *stalls* for community purposes, in locations designated by the *City*. The community purpose *stall(s)* will be available on a daily, first-come, first-served basis, upon application in writing to the *market clerk*. Each application for a community purpose *stall* must be for one date only.

6. Sale of Ice Cream Products

The sale of ice cream products from mobile carts is permitted in the *market* on regular *market* days; provided, however, that such sales only take place from the two internal roadways between Brock Street and Market Street. The ice cream vendor will not block internal vehicular traffic that is ongoing throughout *market* days or interfere with any *stall holder's* ability to do business. Ice cream vendors must also obtain and abide by the terms of all other *City* permits as required.

7. Modification of Conditions

These conditions may be modified or added to as provided for under subsection 4.1 of this by-law.

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Schedule D

Composition and Duties of the Jury

- 1) All first-time applications for the sale of *crafts* at the *market* will be referred to the *jury* for the purpose of ensuring that the *crafts* to be offered meet established criteria.
- 2) The *jury* will consist of three individuals appointed by the *manager* who are not *stall holders*. Members of the *jury* will be chosen based on their experience in *crafts* and their knowledge of *craft* techniques. Employees of the *City* will not be eligible to sit on the *jury* in a decision-making capacity; however, *City* employees may be present to advise and make recommendations to the *jury*.
- 3) The applicant for the sale of *crafts* must be present in person (or virtually if the jurying process is conducted electronically) for the jurying process.
- 4) Members of the *jury* will be compensated at a rate set by the *manager* from time to time.
- 5) Any *person* may appeal the decision of the *jury* to the *manager* within 15 days of being notified of the *jury's* decision. On appeal, the *manager* has the power to affirm the decision of the *jury*, or to approve the application.

Schedule E

Requests for Temporary Absences

The *manager* may grant temporary sabbaticals/leaves of absence (a “*temporary absence*”) to *stall holders* for a period not to exceed 12 months in the aggregate. Requests for a *temporary absence* must be submitted in writing to the *manager* and will be governed by the following provisions:

- 1) The written request for a *temporary absence* must be received by the *manager* before February 1 of each year;
- 2) The written request for a *temporary absence* must include the *stall* number and the reason for the *temporary absence*;
- 3) Requests for *temporary absences* will only be granted due to medical or health conditions, or other circumstances beyond the reasonable control of the *stall holder*;
- 4) In order to request a *temporary absence*, the *stall holder* must be in good standing under the terms of the *licence agreement* and this by-law; and
- 5) The *manager* will respond in writing within 15 business days and will either approve or deny the request for a *temporary absence*. The decision of the *manager* is final.



City of Kingston
Report to Arts, Recreation & Community Policies Committee
Report Number ARCP-21-007

To: Chair and Members of the Arts, Recreation & Community Policies Committee

From: Lanie Hurdle, Chief Administrative Officer (CAO)

Resource Staff: Kate Lillicrap, Project Manager, Office of the CAO

Date of Meeting: March 9, 2021

Subject: Local Food Strategy and Amendments to the Kingston Public Market By-Law

Council Strategic Plan Alignment:

Theme: 5. Foster healthy citizens and vibrant spaces

Goal: 5.6 Leverage and promote food security solutions in partnership with others.

Executive Summary:

In 2019, City Council approved its strategic priorities which included the support and promotion of local food and food security solutions. In November 2020, City Council endorsed amendments to its strategic priorities which included to support increased access to local food and security and specifically included reviewing by-laws and regulations that apply to food markets in Kingston.

City staff have put together a high-level framework to support and promote local food which is divided into three (3) different categories: production, processing and distribution. Although the framework requires the contribution of multiple organizations and businesses, the City will have a role and responsibilities to advance action items to strengthen and link the three (3) categories to better support local food and food security.

This report provides high-level information on the three (3) categories within the food strategy framework but focuses primarily on proposed changes to farmers' market operations which are part of the food distribution category of the framework.

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City staff have identified five (5) markets (Kingston Public Market, Memorial Centre Farmers’ Market, Westbrook Farmers’ Market, West Market Kingston and Community Harvest Market) where local foods are sold. It is important to note that the Kingston Public Market is the only market that is not designated as a farmers’ market as its composition does not include sufficient farmers growing local food. A farmers’ market is defined as ‘a central location at which a group of persons who operate stalls or other food premises meet to sell or offer for sale to consumers products that include without being restricted to, farm products, baked good and preserved foods, at which the majority of people operating the stalls or other food premises are producers of farm products, who are primarily selling or offering for sale their own products’. (Ontario Regulation 562, Section 1(1), KFL&A website).

Kingston Public Market and the Memorial Centre Farmers’ Market are located on City-owned properties but have very different operating models. The Kingston Public Market is governed primarily through the City By-law 2006-118 while the Memorial Centre Farmers’ Market is governed by its own set of policies as established by its Board of Directors. The Westbrook Farmers’ Market is located on private property and is governed by a church committee and policies. The Community Harvest Market is located on private property and is supported by the Kingston Community Health Centres. Historically, the West Market had been located on City property (Centre 70), and in 2020 was located on private property and governed by a Board of Directors.

Name of Market	Operating Location	Characteristics	Governance Model
Kingston Public Market	Springer Market Square	Expecting ongoing operations in 2021	City By-law 2006-118
Memorial Centre Farmers’ Market	Memorial Centre	Expecting ongoing operations in 2021	Board of Directors - Policies
Westbrook Farmers’ Market	Westbrook United Church	Operations in 2021 are unknown	Managed by the Westbrook United Church
West Market Kingston	Reddendale Mall	Operations in 2021 are unknown	Board of Directors - Policies
Community Harvest Market	31 Weller Avenue	Expecting ongoing operations in 2021	Supported by the Kingston Community Health Centres

In late 2020 and in early 2021, City staff held meetings and discussions with key stakeholders including the National Farmers Union, Loving Spoonful, Memorial Centre Farmers’ Market representatives, the Kingston Public Market Vendors Association Board of Directors and the Rural Advisory Committee to better understand the unique needs of various markets and ways to improve supports to local farmers. Furthermore, staff received written feedback from the Community Harvest Market, Westbrook Farmers’ Market, and West Market Kingston.

A number of potential changes were identified for the City to better support farmers’ markets. It was clear that most stakeholders felt that the Kingston Public Market needs major changes in the long-term to be able to attract and retain local farmers. In 2012, staff presented a report and

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study complete with a number of recommendations to improve the Kingston Public Market to the Arts, Recreation & Community Policy Committee ([Report Number ARCP-12-007](#)).

City staff are proposing several amendments to [By-Law 2006-118](#), "A By-Law Respecting the Kingston Public Market", including several housekeeping items as well as staff recommended changes to better support the Kingston Public Market, based on feedback received during the engagement process and in recognition of some of the concerns raised by stakeholders. Recommended changes are discussed further in the Options/Discussion section of this report. Staff are recommending that the existing By-Law be repealed and replaced as per Exhibit A (Draft By-Law) to this report.

City staff are also recommending some short-term and long-term options for other food markets.

The by-laws are being recommended for all three readings in order to have the changes in place for the 2021 market season.

Recommendation:

That the Arts, Recreation & Community Policies Committee recommend to Council the following:

That the by-law attached as Exhibit A to Report Number ARCP-21-007, "A By-Law Respecting the Kingston Public Market", be presented to Council for all three readings to repeal By-Law Number 2006-118, as amended, in its entirety;

That Council direct staff to assign required resources to support the Kingston Public Market Vendors Association to develop a self-governing not-for-profit corporation with the intent to establish a different operating model for 2022; and

That Council endorse waiving fees for the Kingston Memorial Centre Farmers' Market as well as the West Kingston Market, should it be operating on City owned property in 2021; and

That Council endorse an option for a 50% reduction in fees for producers at the Kingston Public Market, as described in Report Number ARCP-21-007; and

That a by-law be presented to Council for all three readings to amend By-Law Number 2005-10, "A By-Law to Establish Fees and Charges to be Collected by The Corporation of the City of Kingston", as amended, attached as Exhibit B to Report Number ARCP-21-007, in order to remove the \$142.60 Sabbatical Leave and Leave Of Absence Fee for the Kingston Public Market and reduce the Casual Produce fee from \$48.76 per day to \$30 per day; and

That Council endorse the proposed short-term changes to all markets and direct staff to pursue long-term changes as described in Report Number ARCP-21-007.

Authorizing Signatures:

ORIGINAL SIGNED BY CHIEF ADMINISTRATIVE OFFICER

Lanie Hurdle,
Chief Administrative Officer

Consultation with the following Members of the Corporate Management Team:

Paige Agnew, Commissioner, Community Services	Not Required
Peter Huigenbos, Commissioner, Business, Environment & Projects	<input checked="" type="checkbox"/>
Brad Joyce, Commissioner, Corporate Services	<input checked="" type="checkbox"/>
Jim Keech, President & CEO, Utilities Kingston	Not Required
Desirée Kennedy, Chief Financial Officer & City Treasurer	<input checked="" type="checkbox"/>
Sheila Kidd, Commissioner, Transportation & Public Works	Not Required

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Options/Discussion:**Background**

In 2019, City Council endorsed its strategic priorities covering the City Council term from 2019 until 2022. These strategic priorities directed staff to “Leverage and promote food security solutions in partnership with others”. In the Strategic Priorities Implementation Plan, endorsed by Council, staff indicated that as part of this priority, the City should provide better support to community-led initiatives that support local food production and expand on farm-to-table programs. Some of these initiatives were intended to be connected to social enterprises. There were two (2) deliverables included within the strategy:

- Develop guidelines to streamline processes/licenses and infrastructure for farmers’ markets, community gardens and edible forests in 2021.
- Work with Tourism Kingston to help support the farm-to-table initiatives included in the Culinary Strategy.

In November 2020, City Council reviewed and adjusted some of the deliverables under its strategic priorities in response to the impact of the COVID-19 pandemic within the community. Local food and food security became even more important in the context of the pandemic and the following deliverables were added by Council to the strategic priorities:

- Review Springer Market Square Public Market by-law to increase the availability and prioritize access to local food in Q2 2021.
- Support the establishment of a Food Hub as initiated by the Social Service Relief Task Force for food program coordination and food distribution in collaboration with other community organizations by Q3 2021.

This report provides the Arts, Recreation & Community Policies Committee with an overview of the local food strategy framework, which will be subject to an additional Council report, but focuses on proposed changes to farmers’ markets and the Kingston Public Market in order to improve supports to local farmers.

Local Food Strategy

The purpose of the Local Food Strategy is to facilitate and implement opportunities for residents to produce, distribute and access more local foods through the development of new social enterprises, support donations to local food programs and advancing the Culinary Strategy.

The Local Food Strategy has the following goals and objectives:

- 1) Increase local food production
- 2) Increase local food distribution and access to food

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- 3) Increase food security for vulnerable populations
- 4) Invest in results-based partnerships and programming
- 5) Increase efficiency of food systems including decreased costs and reduction in greenhouse gas due to transportation of food
- 6) Build collaborations between organizations, including private sector

The Strategy also has three (3) different categories within which community organizations, businesses and the City have a responsibility to implement actions, procedures/processes and policies to achieve the goals of the Local Food Strategy. The following includes the categories as well as examples of how the City can contribute to advance each category:

- Food Production – Improve access to City-owned and private lands for food production. This could include lands that could be acquired by the City or partnerships with property owners could be established to secure access to additional lands that could be utilized for farming purposes. These lands could be in both the urban or rural areas of the City.
- Food Distribution – Improve access to and facilitate access to more locations where local farmers can sell their products. This includes farmers' markets on City properties and private properties as well as the facilitation between local farmers and restaurants. This work will require collaboration with Public Health.
- Food Processing – Improve development of business models and social enterprises to support local food security initiatives and artisan food product development. This also includes the Kingston Culinary Strategy led by Tourism Kingston and private sector low impact food processing as part of the Integrated Economic Development Strategy.

Markets

In 2020, there were five (5) markets in Kingston (Westbrook Farmers' Market, West Market Kingston, Community Harvest Market, Memorial Centre Farmers' Market, and the Kingston Public Market) with two (2) of them located on City-owned properties (Kingston Public Market and Memorial Centre Farmers' Market).

Westbrook Farmers' Market

The Westbrook Farmers' Market is located at the Westbrook United Church at 3526 Princess Street (approximately a 5-minute drive from the Cataraqui Town Centre). The market was founded in 2016. The number of market vendors has fluctuated from 10 (in 2016) to 5 (in 2019). The market did not operate in 2020 due to the pandemic, and it is uncertain at this point whether the market will operate during the 2021 season due to pandemic-related restrictions and challenges. The Westbrook Farmers' Market does not have a Board of Directors, however, it has historically been overseen by a Church Committee. In the past, the Market has had challenges with the City's sign by-law in order to promote its market.

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West Market Kingston

In 2019, West Market Kingston was located on the Centre 70 property where it had been operating since 2018. At that time, the West Market was invoiced \$3,995.96 to access this City property, followed by the submission of a fee waiver application, which was approved by the City. In 2020, West Market Kingston pivoted dramatically due to the COVID-19 pandemic into a year-round Farmers' Market location with online ordering and curbside pickup. The pick-up location in 2020 was located at the Reddendale Mall at 730 Front Rd Unit 11. In 2020, there were 25 year-round market vendors. At the time of this report, there are no plans for the West Market to operate due to a number of challenges. West Market has identified a need for more marketing support.

Community Harvest Market

Formed in 2009 to address the closure of the only grocery store in north Kingston, Community Harvest Kingston's goals are to increase access to local, healthy food; provide education on the benefits of eating a healthy diet; and to build community. The market occurs once a month (from June – October) at 31 Weller Avenue, St. Matthew's United Church. In 2019, the market hosted eight (8) vendors (5 produce, 1 prepared food and 2 crafts). The Community Harvest Market does not have a Board of Directors but receives support from Kingston Community Health Centres. The market did not operate during the 2020 season due to the pandemic.

Memorial Centre Farmers' Market

The Memorial Centre Farmers' Market is 100% producer operated – meaning that the market is governed by a volunteer Board of Directors. The market was founded in 2012 to increase access to sustainably produced local foods in Kingston. The market was initiated by farmers, in collaboration with the Williamsville Neighbourhood Association. All products sold at the market are grown and produced within about 100km of the market. The market hosts over 45 vendors.

Memorial Farmers' Market categories and Vendor Breakdown*

1. **Agricultural** - 19 (Vegetables – 7, Mushrooms – 1, Fruit – 2, Maple Syrup - 1, Honey – 1, Flowers – 1, Dairy – 2, Meat – 4)
2. **Prepared/Baked foods** - 20 (includes ready-to-eat meals as well as things like condiments, sunflower oil, kombucha, cider, coffee)
3. **Craft** - 13 (includes crafters, skincare, pet treats)
4. **Food Court** - none

*this list is based on the primary goods of each vendor - of course there is some overlap (for example, if a vegetable vendor also sells some prepared foods)

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Kingston Public Market

The majority of stakeholders’ feedback has focused on the Kingston Public Market which is the only market not designated as a farmers’ market due to the number of resellers at the market. Established in 1801, the Kingston Public Market has been operating in the Springer Market Square which is regulated under a City of Kingston By-Law.

Over the years, the number of market vendors have reduced for a variety of reasons. 2020 was an usual year due to the COVID-19 pandemic but Table 1 below shows that there has been a reduction in all categories of vendors since 2009.

Table 1 – Kingston Public Market Vendors Since 2009

Year	Producers	Re-sellers	Crafters	TOTAL
2009	25	7	18	50
2010	24	7	13	44
2011	24	7	13	44
2012	25	7	14	46
2013	20	7	14	41
2014	19	7	12	38
2015	23	3	13	39
*2016	21	3	13	37
2017	23	3	13	39
2018	22	3	13	38
*2019	17	3	13	33
2020	17 (13 attended)	3 (2 attended)	11 (6 attended)	31 (21 attended)

*2016 – two vendors on sabbatical (one producer (farmer/grower) and one artisan)

*2019 – one vendor on sabbatical (artisan)

The following definitions are currently applicable to the Kingston Public Market:

- Producers - A vendor who produces its products
- Re-sellers - A vendor that sells others’ goods
- Crafters - A vendor who creates their own crafts from raw materials and shall include artists in all media

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It is important to note that the producers are defined as vendors that produce some of their products but could also include reselling as well based on a review of producers at the Kingston Public Market. The current by-law requires vendors to produce or grow a minimum of 80% of their goods in order to be classified as a producer, otherwise they are classified as re-sellers.

Engagement and Feedback from Stakeholders

City staff have had discussions with Loving Spoonful, the National Farmers Union, the Memorial Centre Farmers' Market representatives, Tourism Kingston, the Board of Directors and vendors from the Kingston Public Market. There were many comments made about major changes that should be implemented at the Kingston Public Market in order to better support local farmers. A number of recommendations will need to be considered for the 2022 market season as they will require significant changes that will not be implemented for the 2021 market season which will start in the Spring.

Staff have also taken into consideration other markets and are proposing some changes in order to improve supports to all markets with the community. It is important to recognize that some options may not be feasible in 2021 due to the pandemic or the complexity of longer-term opportunities and recommendations.

Below are some of the key points that have been raised during the engagement process and some suggestions to address some of the concerns raised by stakeholders.

2021 Proposed Changes:

Amendment to By-Law 2006-118, "A By-Law Respecting the Kingston Public Market"

1. Better defined categories for the Kingston Public Market

There are a number of definitions utilized to define vendors that grow all or in part their produce or goods. There are also definitions that needed to be revised and updated to reflect the current and future use. Staff are suggesting that definitions be amended to include:

- Producer – A Stall Holder who produces a minimum of 80% of their product.
- Reseller – A Stall Holder who produces less than 80% of their product and/or buys their product either locally or from wholesalers.
- Crafter – A vendor who creates their own crafts from raw materials and shall include artists in all media.
- Food Sampling – A vendor can prepare, display and sell samplings of food prepared from their produce within the Public Health regulations.
- Special Events – Any program, filming activity or civic event which has been approved by the City of Kingston to be held in the Springer Market Square.

A number of additional definitions have been streamlined to simplify the by-law. Overall, the language has been simplified, especially related to hours of occupancy, moves and operations.

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The overall hours of operation will not change but vendors will be allowed to depart the market at any time during the day.

2. More attendance flexibility at the Kingston Public Market

This point was raised by all key stakeholders as the most crucial aspect of the current City by-law that has to change in order to retain current local producers and attract new local producers. Currently, the by-law specifies that local producers have to attend 66% of the three (3) days (Tuesday, Thursday and Saturday) in order to maintain their seniority. This attendance requirement is not realistic for a number of local producers as they need to actually grow or produce on the farm which takes up the majority of their time. Staff are suggesting that the attendance requirements be changed to a minimum of one (1) day per week for producers (as defined to be producing or growing 80% of their products). This reduction in attendance will not impact the seniority of producers.

3. Reduction of Fees

The fees for the Kingston Public Market’s seasonal and casual vendors are outlined in the Fees and Charges By-Law as follows:

Springer Market Square – Basic License Rate	Rate
First Row Corner	\$916.59
First Row	\$841.37
Second Row Corner	\$841.37
Second Row	\$770.35
Third Row Corner	\$841.37
Third Row	\$700.88
Market Street Stall 67 to 78 – Parking Provided	\$700.88
Market Street Stall 67 to 78 – Parking Not Provided	\$424.16
Casual – Produce	\$48.76
Casual – Craft	\$48.76
Advertising	\$17.17

Staff are suggesting an option for a 50% fee reduction for producers at the Kingston Public Market in exchange for a donation on a bi-weekly basis to various local food/meal organizations such as the Food Bank, Loving Spoonful, Martha’s Table, etc. The fee reduction can be requested at the beginning of the license agreement with a donation commitment or applied at the end of the season when a producer has been able to donate surpluses on a bi-weekly basis. If it is applied at the end of the season, producers would still have to provide information on

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donations and a reimbursement would be provided. A list of programs and organizations will be provided within the license or permit. The tracking of food donations will also be provided through the license or permit process.

Staff are also recommending reducing the Casual Produce fee from \$48.76 per day to \$30 per day. The proposed rate is based on the feedback received from stakeholders, primarily farmers, and to encourage producers that are starting to sell on a casual basis.

Staff are also recommending that the application fee of \$142.60 for the Kingston Public Market sabbaticals and leaves applications be removed from the by-law.

It is important to note that the City of Kingston covers the cost of administration of the Kingston Public Market which includes a Clerk position and marketing. Therefore, fees applied to vendors will be utilized to cover these costs.

Other Markets

The Memorial Centre Farmers' Market is administered differently and pays one fee to access the Memorial Centre property. The 2020 fee was \$5,427.96. The West Market Kingston did not operate in 2020 but during its first year of operation (2019) it was charged a fee of \$3,995.96 to access Centre 70.

Staff are recommending that City fees be waived for independent not-for-profit markets that operate on City property and do not require significant City investment. This means that fees would be waived for the Memorial Centre Farmers' Market to use the Memorial Centre property, the West Market Kingston to use the Centre 70 property and potential signage fees applicable to Westbrook Farmers' Market. From 2016 to 2020, the Memorial Centre Farmers' Market was approved for \$2,500 towards permit fees annually, which is the maximum fee waiver amount available through the Waiver of Fees Policy. In 2019, the West Market was approved under the same policy for the maximum fee waiver of \$2,500. These were approved with no-draw down to the Waiver of Fees budget as per the policy (4.7.8 In instances where the activity planned does not impact access to the facility by the public; it is deemed by the Director not to compromise potential revenue from other organizations; and it is not expected to result in additional costs for the City; the organization may be recommended for a waiver of fees without utilizing the approved budget allocation to offset the loss of revenue (i.e. free drama event in a City Park)).

The intent is to provide these independent not-for-profit markets with the ability to reduce their costs while contributing to local food security.

4. Dependability at the Kingston Public Market

Feedback provided by key stakeholders indicated that it was important for the City to maintain the three (3) days scheduled Kingston Public Market as much as possible. The current by-law includes a notice period of 1 week for either cancellation or relocation during a special event.

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City staff recognize that in the last five (5) years, there was one (1) instance when the City reduced the Kingston Public Market's hours of operation on a Saturday to facilitate the Tragically Hip concert in the Square. In the last decade, the market was displaced once for the production of a major film (Crimson Peak). This filming production took place before the establishment of the Kingston Film Office and therefore the City did not have any formal processes to facilitate discussions with filming companies and key stakeholders. Since the filming of Crimson Peak, there have been a lot of changes in terms of working with filming companies and stakeholders which have led to more collaborative approaches that have been applied recently through the filming of Locke & Key on Springer Market Square.

In 2019, City staff worked with the Kingston Public Market and conducted a survey of its vendors to establish a different process for notification as a result of an increased demand for access to the Springer Market Square for the purpose of filming. Following the survey in 2019, the following terms were agreed to by all parties until the end of 2020:

- Limited to a maximum of 4 Tuesdays per year;
- Minimum 2 weeks advance notice required;
- City to display signage announcing change for at least 1 week in advance;
- City and Tourism Kingston to announce change on website and through social media channels;
- Any requests beyond or outside 4 Tuesdays per year would be presented for further discussion/negotiation with the Market's designated representative(s).

It is staff's understanding that the terms listed above and that expired at the end of 2020, were generally successful but feedback received by staff indicates that stakeholders are proposing longer notification period. A number of stakeholders were suggesting six (6) to eight (8) weeks' notice and one stakeholder was suggesting that cancellation or displacement should never happen regardless of the circumstances or opportunities.

Staff took into consideration feedback from stakeholders as well as balancing situations and opportunities that may arise. Staff also took into consideration the fact that the current by-law provides for one (1) week notice and that special events have resulted in instance of one (1) reduced hours of operations (from 5 pm to 3 pm) and one (1) relocation in the last decade (10 years). Staff also recognize that the Kingston Film Office has also significantly improved the planning process for all stakeholders in the last few years. Therefore, staff are recommending that the notification period be increased from one (1) week to four (4) weeks where possible and if a shorter time frame is required, the Film Office would liaise with the Vendors Association. Staff have received input from the Kingston Film Office indicating that more than 4 weeks' notice would be extremely difficult to accommodate for most productions. Although not as much time as recently suggested by some stakeholders, this change would double the notice time frame that was piloted in 2020 and is significantly more than what is currently in the by-law (1 week notification).

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Staff recognize that the process for filming has significantly improved with the work done through the Kingston Film Office and therefore staff are recommending additional language in the by-law to strengthen the process which will include display of signage announcing changes at least 1 week in advance as well as information being distributed through social media channels. City staff and the Kingston Film Office will work with the Kingston Public Market Vendors' Association to minimize impacts.

5. Creating a more inviting space

A number of stakeholders mentioned that it is important to create a more inviting space and opportunities for people to spend time at the Kingston Public Market. Staff are proposing to include the option of food preparation and sampling as part of the market experience. Furthermore, staff will be including some language around the look and feel of tents/stalls at the market to ensure cohesion.

Other Changes to Markets in 2021:

6. Provide additional marketing support for all markets

Stakeholders indicated that marketing efforts could be improved to continue to support the growth and sales for their vendors. During the stakeholder engagement, it was mentioned that all markets could benefit from some marketing support from the City and other partners such as Tourism Kingston. Staff are proposing to work with Tourism Kingston to include information on the Visit Kingston website about all markets and their offerings. Furthermore, the City will also improve information on all markets on its website and social media. Staff will work with partners to investigate other marketing opportunities.

7. Additional food programming in the Kingston Public Market

There were discussions with key stakeholders about the possibility of adding chef cooking demonstrations and food preparation and sampling opportunities. Some of these initiatives may be part of a vendor's offerings while others will be completely independent or part of an event. This will be implemented in partnership with Public Health. A definition was added in the Kingston Public Market By-Law to enable this offering. The by-law also indicates that there could be a Holiday Market and a night market for various occasions that could be administered separately. It is important to note that the operations of these separate markets or initiatives will not be subject to the Kingston Public Market By-Law.

Long Term Proposed Changes:

1. Market Manager

Stakeholders have indicated that it would be beneficial for the City to create a Market Manager position that would not only support the Kingston Public Market but that would also provide support to other food markets within the City. Currently, the City has a part-time market clerk

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which essentially monitors vendors stalls and provides support to vendors as required. It was noted that this position is required as long as the market set-up remains unchanged from its current structure. The Market Manager would be an additional position or an amended position that would provide marketing and promotional support. Staff will consider this for 2022 with possible contributions from the City and other partners. There is also a possibility for the Kingston Public Market to hire its own Market Manager (similar to Memorial Centre Farmers' Market) should it change its governance model and become self-sustaining. This option needs more discussions and consultation.

2. Year-Round Market

A number of stakeholders have identified the need to establish an indoor year-round market. Currently, the Kingston Public Market allows for year-round use of the market by vendors but this is entirely outdoors. The Memorial Centre Farmers' Market makes use of some of the barns during the winter but there is not proper heating and lighting. Significant alterations would be required to make the buildings appropriate for an indoor market. Staff will review option in 2021.

3. Change the Kingston Public Market model to a farmers' market

This was raised by some key stakeholders as the preferred model for the future of the Kingston Public Market which is the only market not designated as a farmers' market. A verified local farmers market is defined as a producers-only, community-driven (not private) multi-vendor farmers' market featuring only the actual farmers, growers and producers of the products they sell. This could also include a change in market layout, etc. It is important to review the potential impacts on re-sellers and the viability of a 3 days per week market if producers cannot achieve attendance of 3 days per week. Based on additional comments and feedback received from the Rural Advisory Committee and stakeholders, staff are recommending that the first step should be to provide support to the Kingston Public Market Vendors Association to establish itself as a not-for-profit self-governing organization that can establish its own regulations, similar to other markets within the City. Staff are recommending that appropriate resources be made available to the Vendors Association in 2021 in order to advance this model and possibly issue a request for information or proposal for the 2022 operating season. As individual vendors/businesses at the Kingston Public Market have their own needs and interest it is unclear at this point if there is interest from the overall Association. Staff do believe that it will be impossible to obtain clear information or direction from the Association until a discussion about a self-governing model is initiated by resources assigned by the City.

4. Over-arching Market Association

Stakeholders indicated that this could be an end state for markets in Kingston. This would bring together the different markets, leverage marketing and funding opportunities, etc. There would be one body to govern markets and consistency across the various locations. This is a much longer-term endeavor and would require a lot of facilitation and planning.

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Existing Policy/By-Law:

By-Law No. 2006-118, A By-Law Respecting the Kingston Public Market

By-Law No. 2005-10, A By-Law to Establish Fees and Charges to be Collected by The Corporation of the City of Kingston, as Amended

Notice Provisions:

None

Accessibility Considerations:

None

Financial Considerations:

The Memorial Centre Farmers' Market is administered differently and pays one fee to access the Memorial Centre property. The 2020 fee was \$5,427.96. The West Market Kingston did not operate in 2020 but during its first year of operation (2019) it was charged a fee of \$3,995.96 to access Centre 70. At this point, it is unknown if the West Market Kingston will be operating on 2021 and if it will relocate to Centre 70. Therefore, staff had budgeted for revenues of about \$5,430 for the Memorial Centre Farmers' Market.

It is also unknown how many producers will attend the Kingston Public Market and how many of them will request a reduction in the license fees. Assuming that the number of producers are similar to 2020 and about 3/4 of them (9 producers out of 13 who attended in 2020) request a 50% reduction at the highest rate (\$916), it is anticipated that there would be a loss of revenue of about \$4,410. The reduction in producer daily permits is not significant but would represent an additional loss of revenues from \$48.76 to \$30 per day.

In total, expected loss of revenues compared to the 2021 budget would be in the range of \$10,000 - \$12,000, including daily permits. Staff believe that this could be accommodated without any significant impacts on the overall budget.

Contacts:

Lanie Hurdle, Chief Administrative Officer 613-546-4291 extension 1231

Other City of Kingston Staff Consulted:

Megan Knott, Executive Director, Tourism Kingston

Kate Lillicrap, Project Manager, CAO's Office

Jaclyn Grimmon, Manager, Recreation Programs

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Jenna Morely, Associate Legal Counsel

Exhibits Attached:

Exhibit A – “A By-Law Respecting the Kingston Public Market”, and to Repeal By-Law Number 2006-118, as Amended, in its entirety

Exhibit B – A By-Law to Amend By-Law Number 2005-10, “A By-Law to Establish Fees and Charges to be Collected by The Corporation of the City of Kingston”, as Amended

By-Law Number 2021-XX

A By-Law Respecting the Kingston Public Market, and to Repeal By-Law Number By-Law 2006-118, in its Entirety

Passed: Meeting Date, 2021

A By-Law Respecting the Kingston Public Market

Whereas Section 113 of the *Municipal Act, 2001*, S.O. 2001, c. 25 authorizes municipalities to pass by-laws to establish, maintain, operate and regulate markets;

And Whereas pursuant to Section 113 of the *Municipal Act, 2001*, Council enacted By-Law 2006-118, "A By-Law Respecting the Kingston Public Market";

And Whereas Council desires to repeal and replace By-Law 2006-118;

Now Therefore the Council of The Corporation of the City of Kingston hereby enacts as follows:

1. Definitions

In this By-Law:

"**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 under this By-Law;

"**City**" means The Corporation of the City of Kingston;

"**Council**" means the Council of the City;

"**Craft**" means an item of decorative design and handicraft, or an item produced by hand and consisting of a one-of-a-kind or studio production work, and generally includes those items made with some degree of artistic purpose, but excludes mass-manufactured items;

"**Daily Permit**" means a permit issued by the City to a Stall Holder pursuant to this By-Law governing the Stall Holder's use and occupation of a Stall for one day;

"**Jury**" shall mean the Market jury established by the City's Manager of Recreation & Leisure Services pursuant to Schedule D of this By-Law;

"**Licence Agreement**" means the licence agreement entered into by the City and the Stall Holder pursuant to this By-Law governing the Stall Holder's use and occupation of a Stall. The licence is not a lease in the legal sense and does not afford lease rights and remedies under the *Commercial Tenancies Act* or otherwise under applicable law;

"**Manager**" means the Manager of Recreation & Leisure Services for the City, or his or her designate, or, in the event of organizational changes, the manager of the appropriately titled department;

"**Market**" means the City of Kingston public market located at Springer Market Square, as approximately shown on Schedule A;

"**Market Clerk**" means the Person designated by the Manager to manage the Market;

"**Market Season**" means:

	Item	Dates
i)	Produce	January 1 to December 31;
ii)	Craft	January 1 to December 31;
iii)	Antiques	April 1 to November 30;

"**Person**" includes an individual, partnership, association, firm or corporation;

"**Producer**" means a Stall Holder who produces a minimum of 80% of their product;

"**Re-seller**" means a Stall Holder who produces less than 80% of their product and/or buys their product either locally or from wholesalers;

"**Stall Holder(s)**" means a Person who has entered into a Licence Agreement with the City for the use and occupation of a Stall, or who has received a Daily Permit from the City for the use and occupation of a Stall; and

"**Stall**" means that portion of the Market licensed by the City to a Stall Holder pursuant to a Daily Permit or Licence Agreement, as the case may be.

2. Administration

2.1 The City's Recreation & Leisure Services department is responsible for the administration of this By-Law.

2.2 Every application for a new Licence Agreement, or a renewal of an existing Licence Agreement, shall be submitted to the Manager in the form provided.

2.3 Every application for a new Licence Agreement, or a renewal of an existing Licence Agreement, shall be accompanied by the full licence fee, as set out in City of

Kingston By-Law Number 2005-10, "A By-Law to Establish Fees and Charges to be Collected by The Corporation of the City of Kingston", together with the jurying fee referred to in Schedule D, if applicable.

- 2.4 Notwithstanding Section 2.3 of this By-Law, a Producer may request a 50% fee reduction in exchange for a bi-weekly donation to a local food program or organization that supports the most vulnerable populations in the community, subject to and in accordance with the terms of the Licence Agreement.
- 2.5 The Manager shall review each complete application and shall grant or refuse to issue a Licence Agreement or Daily Permit, as the case may be, and shall notify the applicant of its decision in writing.
- 2.6 All applications for a Craft Stall or the sale of Crafts must include a detailed description of the Crafts to be offered, as well as information on how the Crafts are produced. All such applications are subject to the Jury process described in Schedule D.
- 2.7 A Person whose application for a Licence Agreement or a renewal of a Licence Agreement has been refused, or a Person whose Licence Agreement has been terminated may, within 15 days of being notified of the City's decision, submit an application to appeal to the Administrative Policies Committee for a review of the decision. A Person whose application for a Daily Permit has been refused has no right of appeal and the decision of the Manager is final.
- 2.8 On appeal, the Administrative Policies Committee has the power to affirm the decision of the Manager to refuse or terminate the Licence Agreement, or to direct the Manager to issue, renew or reinstate the Licence Agreement.
- 2.9 Decisions of the Administrative Policies Committee are final.

3. Interpretation

- 3.1 Any reference herein to any by-law or Act of any government shall be construed as a reference thereto as amended or re-enacted from time to time or as a reference to any successor thereto then in force.

4. Application of By-Law and Prohibitions

- 4.1 This By-Law applies to the use of the Market by Stall Holders. Non-Market civic events held in Springer Market Square will be regulated by the City's First Capital Place Policy, the City's Special Events Policy for City Parks and Facilities, and all other applicable City policies, as amended or replaced from time to time.
- 4.2 No Person shall sell, offer for sale, display, distribute or hand out any item in, on or at the Market without a valid Licence Agreement or a Daily Permit issued under the

provisions of this By-Law.

- 4.3 No Person shall knowingly submit an application for a Licence Agreement or Daily Permit that contains false, misleading or deceptive information.
- 4.4 No Stall Holder or employee of a Stall Holder will 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.
- 4.5 No Stall Holder may sell, offer for sale, display, distribute or give any live animal, including any live bird, live fish or live reptile, at the Market.

5. Licence Agreements and Daily Permits

- 5.1 Each Stall Holder shall be required to execute a Licence Agreement or to obtain a Daily Permit prior to accessing or using the Stall. Each Licence Agreement and Daily Permit shall contain the terms and conditions specified in this By-Law, including, without limitation, the general provisions set out in Schedule C of this By-Law, subject to any modifications or additional provisions which may be made to those general provisions as reasonably required by the Manager and approved by the City's Director of Legal Services.
- 5.2 No Stall Holder shall transfer or assign their Licence Agreement or Daily Permit or sublicense or allow any other Person(s) to occupy the Stall without the prior written consent of the Manager.
- 5.3 Every Stall Holder shall comply with all applicable federal, provincial, and municipal laws and regulations governing the use and occupation of the Stall and the operation of the Stall Holder's business at the Stall.
- 5.4 A Stall Holder may request a temporary suspension of its obligations under the Licence Agreement, subject to and in accordance with Schedule E of this By-Law.
- 5.5 All Stall Holders shall display their Stall card in a prominent place in their Stall at all times.

6. Allocation of Stalls and Eligibility for Renewal

- 6.1 Stalls will be allocated to Stall Holders based on seniority and compliance with the attendance requirements set out in Section 6.3 below, except between November 1 and March 31 inclusive, when Stalls will be offered by availability and seniority. Seniority will be determined by the number of consecutive years that the Stall Holder has maintained a Stall at the Market.

- 6.2 In allocating Stalls to new Stall Holders, preference will be given to Producers who live within a 100-kilometre radius of the geographic boundaries of the City of Kingston.
- 6.3 In order to be eligible for renewal of a Licence Agreement, a Stall Holder must achieve 80% attendance at the Market, during the days and at the times specified in Schedule B, in the Stall Holder's best three months of the previous Market Season, subject to Section 6.4 below. For clarity, in calculating the 80% attendance threshold, inclement weather days shall be excluded.
- 6.4 Notwithstanding Section 6.3, a Producer is only required to maintain a minimum attendance of one day per week during the Producer's best three months of the previous Market Season in order to be eligible for renewal of a Licence Agreement.

7. Cancellation, Postponement and Rain Checks

- 7.1 Any Licence Agreement or Daily Permit may be cancelled by the City at any time for breach of any provision of the Licence Agreement, Daily Permit, or this By-Law.
- 7.2 The City may, without notice, require the closure and/or vacation of the Market at any time due to a real or perceived emergency. For purposes of this Section 7.2, an emergency shall include any public emergency, such as a pandemic and/or epidemic as deemed to be such by the City in its sole discretion.
- 7.3 If the Market is required by the City for a special event, including, without limitation, a program, filming activity or civic event approved by the City, the Manager may, upon at least four weeks' notice to the Stall Holders, where possible, require the closure, vacation and/or postponement of the Market on the days and at the times specified in the notice. Where possible, such notice will include any scheduled rain dates for the special event. In addition to the notice period, the following terms and conditions will be applicable in the case of a cancellation or postponement:
- In the case of postponement, the Market day will be rescheduled to the next available Friday, where reasonably possible;
 - The City must display signage at the Market announcing the cancellation/postponement for a period of at least one week prior to the cancellation/postponement;
 - The City and Tourism Kingston must announce the cancellation/postponement on their website and through social media channels.
- 7.4 Rain checks will only be offered to Daily Permit holders who have paid the daily fee, and who are required to vacate the Market prior to 11:00 a.m. due to inclement weather. Rain checks will not be offered to Licence Agreement holders.

8. Jury

8.1 The composition and duties of the Jury with respect to the sale of Crafts at the Market shall be as set out in Schedule D of this By-Law.

9. Schedules

9.1 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 – General Provisions for Stall Holders

Schedule D – Composition and Duties of the Jury

Schedule E – Requests for Temporary Absences

10. Inspections

10.1 The Manager, the Market Clerk, and any authorized agent or employee of the City, shall have the right, at any time and from time to time, to inspect the Stalls, and all property, equipment, products and fixtures therein, 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.

11. Offence and Penalty Provisions

11.1 Every Person, other than a corporation, who breaches any provision of this By-Law, or contravenes an order issued under this By-Law, is guilty of an offence, and on conviction, is liable to a fine of not more than \$10,000 for a first offence and \$25,000 for any subsequent offence.

11.2 Every corporation that breaches any provision of this By-Law, or contravenes an order issued under this By-Law, is guilty of an offence, and on conviction, is liable to a fine of not more than \$50,000 for a first offence and \$100,000 for any subsequent offence.

11.3 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.

12. Validity

12.1 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.

13. Repeal of By-Law 2006-118

13.1 By-Law 2006-118, "A By-Law Respecting the Kingston Public Market", as amended, is hereby repealed in its entirety.

14. Commencement

14.1 This By-Law comes into force and take effect on the date of its passing by Council.

Given All Three Readings and Passed: Meeting date, 2021

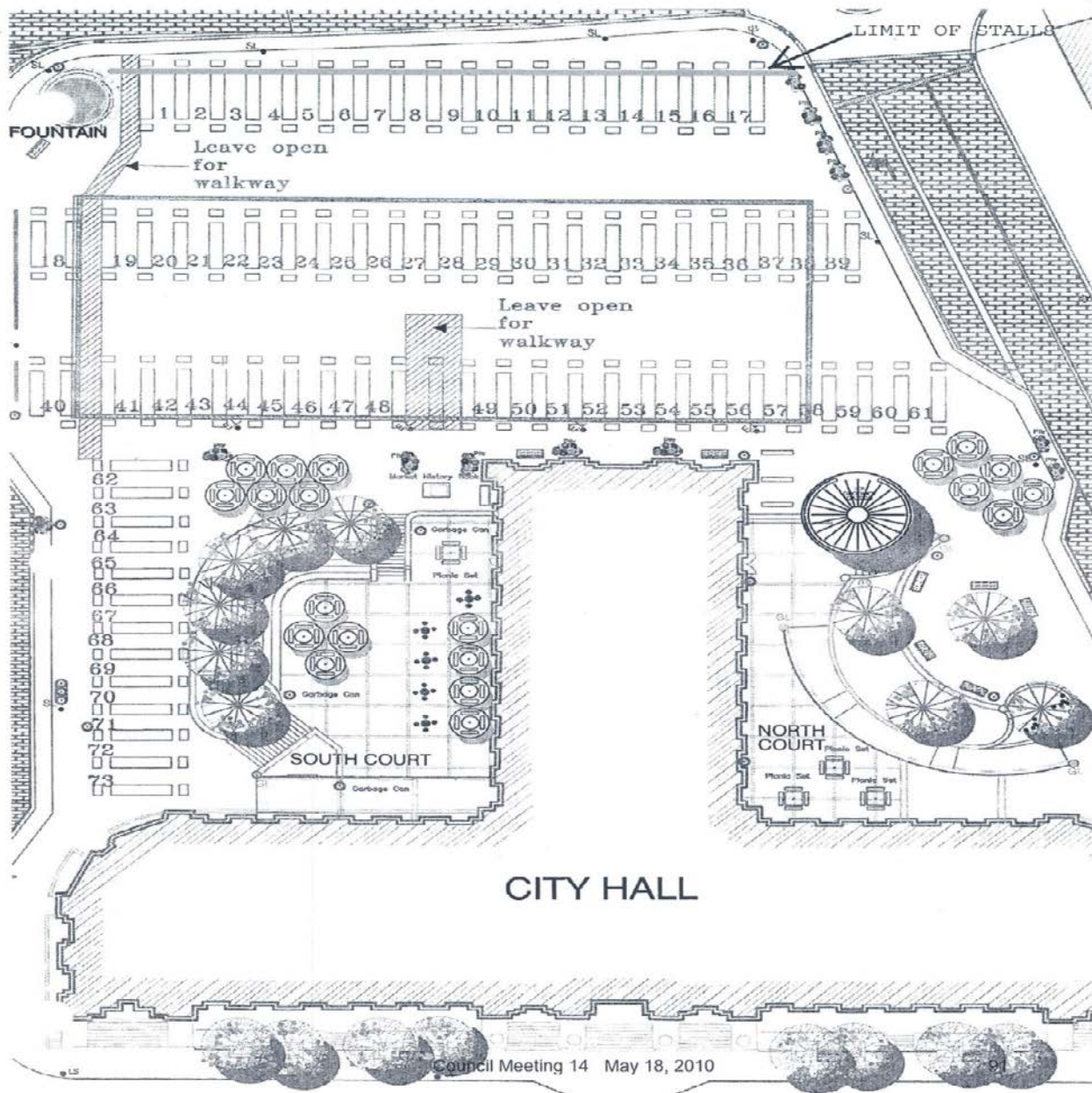
John Bolognone

City Clerk

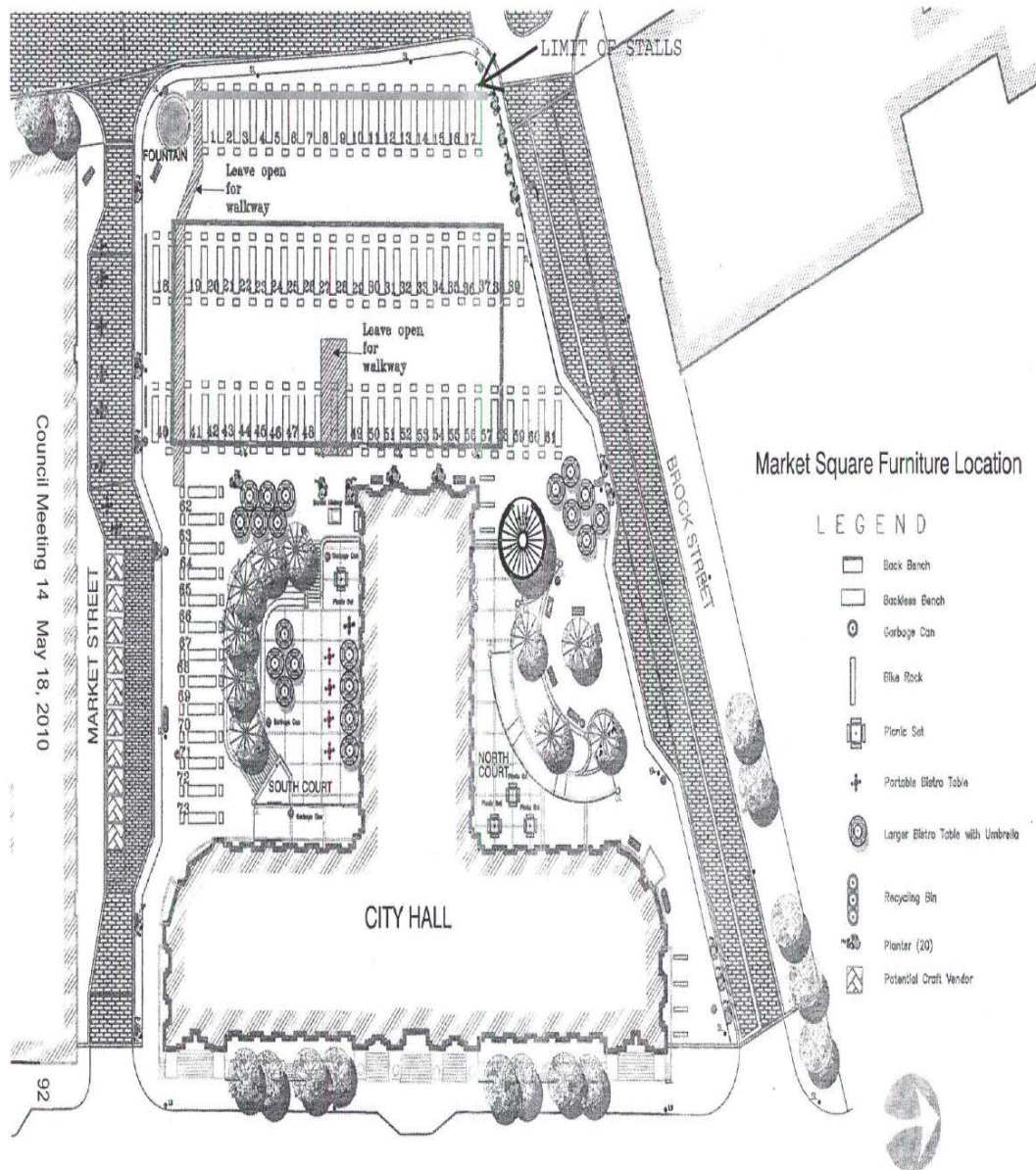
Bryan Paterson

Mayor

Schedule A Market Layout



Schedule A Continued



Schedule B
Market Days and Hours

- 1) The Market will run during the Market Season (as defined in Section 1 of this By-Law) on the following days:
 - a) Produce and Craft – Tuesday, Thursday, Saturday; and
 - b) Antiques, Produce and Craft – Sunday.

- 2) The regular Market operating hours shall be as follows:
 - a) 8:30 a.m. to 5:00 p.m. from April 1 to October 31; and
 - b) 9:00 a.m. to 5:00 p.m. from November 1 to March 31.

- 3) Stall Holders shall set-up their Stall no earlier than 6:00 a.m. and no later than 7:30 a.m. on Market days during the months of June, July and August, or by 8:00 a.m. during any other calendar month, unless otherwise authorized by the Market Clerk. All Stall Holders must vacate the Market by no later than 6:00 p.m. each day.

- 4) If a Stall remains unoccupied by 7:30 a.m. during the months of June, July and August, or by 8:00 a.m. during any other calendar month, the Market Clerk shall have the right to offer the Stall(s) to the other Stall Holders in attendance for use on the subject day. Unoccupied stalls will be allocated based on seniority pursuant to Section 6.1 of this By-Law, subject to the following provisions:
 - a) if a Producer or Re-Seller Stall is unoccupied, a Producer or Re-Seller who is in attendance may request to relocate to that Stall at no additional cost. If no Producer or Re-Seller requests to be relocated, or if more than one Producer or Re-Seller requests to be relocated, the unoccupied Stall will be allocated based on seniority in the manner described above; and
 - b) if a Craft Stall is unoccupied, a Craft Stall Holder who is in attendance may request to relocate to that Stall at no additional cost. If no Craft Stall Holder requests to be relocated, or if more than one Craft Stall Holder requests to be relocated, the unoccupied Stall will be allocated based on seniority in the manner described above.

- 5) The Market Clerk has the right to reassign Stalls to improve the compatibility and appearance of the Market, and to assure that no Stall Holder is isolated.

- 6) Notwithstanding the provisions of the foregoing, Craft Stall Holders may operate on regular Market days in the produce area of the Market, provided space is available.

- 7) During the months of April to October inclusive, Producers and Re-Sellers may offer for sale Craft products, provided that the Craft products do not occupy more than 10% of the display area of the Stall, and provided the Crafts have been approved by the Jury in accordance with Schedule D.

- 8) During the months of November to March inclusive, Producers and Re-Sellers may offer for sale Craft products, provided that the Craft products do not occupy more than 20% of the display area of the Stall, and provided the Crafts have been approved by the Jury in accordance with Schedule D.

Schedule C
General Provisions for Stall Holders

1. Market Sales

- 1) The Stall Holder shall not use or permit the use of a Stall for any purpose other than the following:
 - (a) the retail sale of raw or processed product of an agricultural crop, industry or enterprise, such as, by way of example, fruits and vegetables;
 - (b) food sampling in accordance with the provisions of the *Health Promotion and Protection Act*, R.S.O. 1990, c. H.7, and all public health regulations, rules and guidelines;
 - (c) the retail sale of Crafts approved pursuant to Schedule D of this By-Law; and
 - (d) the retail sale of antiques, on the day specified in Schedule B only.
- 2) No Craft vendor shall be permitted to occupy more than one (1) Stall in the Market.

2. Attendance

Stall Holders must use reasonable efforts to notify the Market Clerk in advance if the Stall Holder is unable to attend the Market on a scheduled Market day in accordance with the Market hours set out in Schedule B.

3. Vehicles and Parking, No Obstructions

- 1) Stall Holders shall be permitted to park their vehicles in their designated Stall on regular Market days, during the hours set out in Section 2 of Schedule B, so long as the Stall is being actively operated for business.
- 2) Stall Holders shall only be permitted to park their vehicles in their designated Stall. Any vehicle that will not fit on a double Stall will not be permitted in any other location on the Market.
- 3) Stall Holders shall maintain their vehicles, trailers and associated equipment, and shall take whatever precautions are necessary to ensure that there is no fluid leakage on the Market, including, without limitation, placing cardboard or other materials under the oil pan of the vehicle. Stall Holders shall minimize vehicle idling at the Market in accordance with the City's Idling By-Law.

- 4) The Stall Holder shall not, and shall not permit the obstruction of any sidewalks, including by way of placement of awnings, signs, fixtures or products. Awnings may be permitted to overhang onto a sidewalk if the Manager determines that the awning does not interfere with pedestrian and/or other traffic or adjacent Stalls.

4. Operating Requirements

All Stall Holders shall comply with the operating requirements set out in the Licence Agreement or Daily Permit, including without limitation, all insurance, indemnification, maintenance, and cleaning requirements set out therein.

5. Community Purpose Stalls

Notwithstanding any of the provisions of this By-Law, one Stall in the Market will be reserved for community purposes on Market days in a location designated by the City. During the period from November 1 to March 31 in each year, the City will reserve six Stalls for community purposes, in locations designated by the City. The community purpose Stall(s) shall be available on a daily, first-come, first-served basis, upon application in writing to the Market Clerk. Each application for a community purpose Stall shall be for one date only.

6. Sale of Ice Cream Products

The sale of ice cream products from mobile carts shall be allowed in the 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 Stall Holder's ability to do business. Ice cream vendors shall also obtain and abide by the terms of all other City permits as required.

7. Modification of Conditions

These conditions may be modified or added to as provided for under Section 5.1 of this By-Law.

Schedule D
Composition and Duties of the Jury

- 1) All first-time applications for the sale of Crafts at the Market shall be referred to the Jury for the purpose of ensuring that the Crafts to be offered meet established criteria. A jurying fee shall be charged to each applicant at the time application is made.
- 2) The Jury shall consist of three individuals appointed by the Manager who are not Stall Holders. Jurors shall be chosen based on the following criteria:
 - a. experience in Crafts; and
 - b. knowledge of Craft techniques.

City staff shall not sit on the Jury in a decision-making capacity; however, staff may be present to advise and make recommendations to the Jury.

- 3) The applicant must be present in person (or virtually if the jurying process is conducted electronically) for the jurying process.
- 4) Jurors will be compensated at a rate set by the Manager from time to time.
- 5) Any Person may appeal the decision of the Jury to the Manager within 15 days of being notified of the Jury's decision. On appeal, the Manager has the power to affirm the decision of the Jury, or to approve the application.

Schedule E Requests for Temporary Absences

The Manager (as defined in Section 1 of this By-Law) has the authority to grant temporary sabbaticals/leaves of absence (a “**Temporary Absence**”) to Stall Holders for a period not to exceed 12 months. Requests for a Temporary Absence must be submitted in writing to the Manager and will be governed by the following provisions:

- 1) The written request for a Temporary Absence must be received by the Manager before February 1 of each year;
- 2) The written request for a Temporary Absence must include the Stall number and the reason for the Temporary Absence;
- 3) Requests for Temporary Absences will only be granted due to medical or health conditions, or other circumstances beyond the reasonable control of the Stall Holder;
- 4) In order to request a Temporary Absence, the Stall Holder must be in good standing under the terms of the Licence Agreement and this By-Law; and
- 5) The Manager will respond in writing within 15 business days and will either approve or deny the request. The decision of the Manager is final.

By-Law Number 2021-XX

A By-Law to Amend By-Law Number 2005-10, “A By-Law to Establish Fees and Charges to be Collected by The Corporation of the City of Kingston, as Amended.”

Passed:

Be it resolved that the Council of the Corporation of the City of Kingston hereby enacts as follows:

- 1. By-Law 2005-10, being “A By-Law To Establish Fees and Charges to be Collected by The Corporation of the City of Kingston”, as amended, is hereby further amended as follows:
 - a. Schedule A of By-Law 2005-10, Springer Market Square - Daily Rates, deletes the Casual Produce fee of \$48.76 per day and replaces with \$30 per day; and
 - b. Springer Market Square - Additional Fees, deletes the Sabbatical Leave and Leave Of Absence fees in entirety.
- 1. This By-Law shall come into force and take effect on the date of its passing.

Given all Three Readings and Passed: Meeting Date, 2021

John Bolognone
City Clerk

Bryan Paterson
Mayor