

THE CORPORATION OF HALDIMAND COUNTY

By-law Number /20

Being a by-law to regulate Haldimand County Farmers Markets on Public Property

WHEREAS pursuant to Section 113 of the *Municipal Act 2001 S.O. 2001, c.25*, Council may pass by-laws for establishing, maintaining and operating markets and for regulating such markets and any other markets located within the municipality,

NOW THEREFORE, the Council of The Corporation of Haldimand County enacts as follows:

PART I – SHORT TITLE

This by-law shall be referred to as the “Farmers Market By-Law”.

PART II – DEFINITIONS

For the purposes of this by-law:

1. **“Dunnville Farmers Market”** means the waterfront pavilion and associated parking stalls located at the Dunnville Waterfront Park, 218 Main Street East, Dunnville.
2. **“Farmers Market”** means a Farmers Market where Producers and Vendors offer for sale produce and products grown from their own farm or other goods, services or information.
3. **“Food”** means food or drink for human consumption, and includes an ingredient of food or drink for human consumption.
4. **“Food Premise”** is a premises where food or milk is manufactured, processed, prepared, stored, handled, displayed, distributed, transported, sold or offered for sale, but does not include a room actually used as a dwelling in a private residence.
5. **“Food Service Premise”** means any food premise where meals or meal portions are prepared for immediate consumption or sold or served in a form that will Permit immediate consumption on the premises or elsewhere.
6. **“Hagersville Farmers Market”** means the pavilion and associated parking stalls located at 1 Main Street South, Hagersville.
7. **“Hazardous Foods”** means any food that is capable of supporting the growth of pathogenic organisms or the production of the toxins of such organisms.
8. **“Immediate Family Member”** means spouse, parents or child.

9. **“Market Operator”** association, corporation, Person or other body which is responsible for the administration of the market.
10. **“Mobile Food Premise”** shall mean a vehicle or other itinerant food preparation premise from which food prepared therein is offered for sale to the public.
11. **“Municipal Law Enforcement Officer”** means a Person or Persons duly appointed by the Council of the Corporation to enforce the provisions of this by-law and includes any Police Officer appointed pursuant to the *Police Services Act*.
12. **“Non-Hazardous Foods”** means any food that is not capable of supporting the growth of pathogenic organisms or the production of the toxins of such organisms.
13. **“Permit”** means any written authorization from the Market Operator for a Vendor’s use of a stall or other defined space.
14. **“Person”** means any individual, Vendor, market operator, association, group, organization, firm, partnership, corporation, agent or trustee and the heirs, executors or other legal representatives of a Person to whom the context can apply according to law or an event organizer or Permit holder and shall include any group of Persons comprising a society or other organization and shall include the plural wherein the context requires.
15. **“Police Officer”** means a member of the Ontario Provincial Police.
16. **“Producers”** include Vendors who offer for sale but are not limited to: baked goods, cosmetics derived from farm products, meat, fish, seafood, poultry, butter, eggs, honey, maple syrup, sweets, flowers, plants, shrubs, fruit, vegetables and other Ontario farm produce, garden, cider, wine, coffee, tea or dairy products, as well as products or other items derived from primarily from their farm.
17. **“Vendor”** means a Producer or other Person who is Permitted to offer produce or other goods, services or information for sale on a Farmers Market Day during market hours.

PART III – DELEGATION OF AUTHORIZING AUTHORITY

Authority is delegated as follows:

18. The General Manager of Community and Development Services or his/her designate are authorized to:
 - i. designate or enter into an agreement or memorandum of understanding with a Market Operator who will be responsible for specific administration functions of the market;
 - ii. provide additional day(s) or alternative hours for Farmer Market operations.

19. Market Operator is authorized to:
- i. issue Vendor Permits, assign stalls and set stall fees;
 - ii. issue Permits thereby, providing a Vendor with the exclusive right of use to a market stall during operating hours of the market;
 - iii. restrict or refuse the sale of any product by any individual or all Vendors for any reason at any time with or without notice as the circumstances warrant;
 - iv. ensure Vendor compliance with all applicable Federal, Provincial and County by-laws, regulations and legislation.

PART IV – GENERAL PROVISIONS

20. No Person or Vendor shall litter in any market.
21. Every Market Operator of a Farmers Market shall ensure 50% +1 of Vendors are Producers.
22. Farmers Market Vendors offering other goods, services, or information are Permitted as long as it does not interfere with the sale of food.
23. All Persons shall comply with all applicable regulations, guidelines, and any other requirements set out by the Haldimand-Norfolk Health Unit, as per the *Health Protection and Promotion Act* (HPPA), to ensure public safety is met.
24. Every Person offering food for sale shall obtain from the Haldimand-Norfolk Health Unit confirmation that they are in compliance with the applicable regulations found in the *Protection and Promotion Act*.
25. No Person shall sell, offer to sell, display, distribute or hand out at the Farmers Market during market operating hours:
- i. any live animal, any bird, fish or reptile (with the exception of live lobster), whether for the purpose of a pet or food.
26. No Person shall make any change or alteration to County property at the Farmers Market (including any erection, installation or display of a sign) except with the prior written approval of Haldimand County and the Market Operator.
27. Every Person using a stall shall keep his/her vehicle(s) and goods within the bounds of the space allocated.
28. No Person shall transfer, assign their Permit, sublet or allow any other Person(s) to occupy the stall except for a member of the immediate family without the approval of the Market Operator.

Farmers Market Locations and Schedule

29. The Dunnville Farmers Market will operate within stalls designated in Schedule “A” each Tuesday and Saturday from April 1st until December 31st. Market hours will be from 6:00 am until 1:00 pm.

The Hagersville Farmers Market will operate within stalls designated in Schedule “B” each Wednesday from April 1st until December 31st. Market hours will be from 6:00 am until 1:00 pm.

Permits & Fees

30. Any Person wishing to become a Vendor and apply for a Permit shall make an application to the Market Operator and all such applications shall be filed with the Market Operator. The Market Operator has discretion in approving Vendors on a best fit to the market goals basis.
31. No Person shall be entitled to be issued a Permit at the market unless an application has been made and prescribed fees are paid as established by the Market Operator.

Mobile Food Premise

32. Every Person(s) operating a Mobile Food Premise will require Haldimand-Norfolk Health Unit Approval, Haldimand County Fire Services, a certified combustible fuel authority where the Mobile Food Premises is equipped with combustible fueled appliances, a certified electrical safety authority where the Mobile Food Premises is equipped with electrical food preparation appliances and must meet all relevant provincial legislation but do not have to acquire a mobile food premise license from Haldimand County.

PART V – ENFORCEMENT

33. For the purpose of ensuring compliance with this by-law, a Municipal Law Enforcement Officer or Police Officer may at all reasonable times, enter upon and inspect any land or Public Park or Farmers Market to determine whether or not the following are being complied with:
- i. this by-law;
 - ii. a direction or order made under this by-law; or
 - iii. a prohibition order made under s.431 of the *Municipal Act, 2001*.
34. A Municipal Law Enforcement Officer or Police Officer may for the purposes of the inspection under Section 15:
- i. require a Person to produce for inspection any Permit, written contract or other authorization Permitting the Person to use the Public Park or Farmers Market;
 - ii. inspect and remove any Permit, written contract or other authorization relevant to the inspection for the purpose of making copies or extracts;
 - iii. require information in writing or otherwise as required by the Officer from any Person concerning a matter related to the inspection; or

- iv. alone or in conjunction with a Person possessing special or expert knowledge, undertake an inspection to determine compliance with this by-law.
35. A Municipal Law Enforcement Officer, or Police Officer may make an Order, sent by prepaid regular mail to the last known address, posted on-site or personally delivered to a Person requiring the Person within the time specified in the Order to:
- i. discontinue the contravening activity; and/or
 - ii. do work to correct the contravention.
36. An Order may be served on a Person personally by handing it to the Person, but where the Order cannot be given or served by reason of the Person's absence from the Person's property or by reason of evasion of service, the order may be given or served:
- i. by handing it to an apparently adult Person on the Person's property;
 - ii. by posting it in a conspicuous place upon some part of the owner's property and by sending a copy by ordinary mail; or
 - iii. by sending it by prepaid registered mail to the owner at the address where he/she resides.
37. If an Order is served by registered mail, the service shall be deemed to have been made on the fifth (5th) day after the day of mailing.
38. An Order under Section 17 shall set out:
- i. reasonable particulars of the contravention adequate to identify the contravention and the location of property on which the contravention occurred;
 - ii. the work to be completed; and
 - iii. the date(s) by which the work must be complete.
39. Where any Person contravenes any of the provisions of this by-law or fails to comply with any order referred to in Section 17 hereof, any Permit, approval or any exclusion or any exception provided for in this by-law, provided to such Person, to remain in or use that park or market, is revoked.

Penalty

40. Each Person who contravenes any provision of this by-law is guilty of an offence.
41. An individual convicted of an offence under section 21 is liable:
- i. on a first conviction to a fine of not more than \$50,000; and
 - ii. on a subsequent conviction to a fine of not more than \$50,000 for each day or part of a day upon which the contravention has continued after the day on which the individual was first convicted.
42. A corporation convicted of an offence under Section 21 is liable:
- i. on a first conviction to a fine of not more than \$50,000; and

- ii. on a subsequent conviction to a fine of not more than \$50,000 for each day or part of a day upon which the contravention has continued after the day on which the corporation was first convicted.
43. Each Person who contravenes any provision of this by-law is guilty of the offence under the *Provincial Offences Act*.

PART VI – REPEALS

44. Town of Dunnville By-law 7/81 and Town of Haldimand By-law 536/86 are hereby repealed.

PART VII – ENACTMENT

45. This by-law comes into force and effect on the date of its passing.

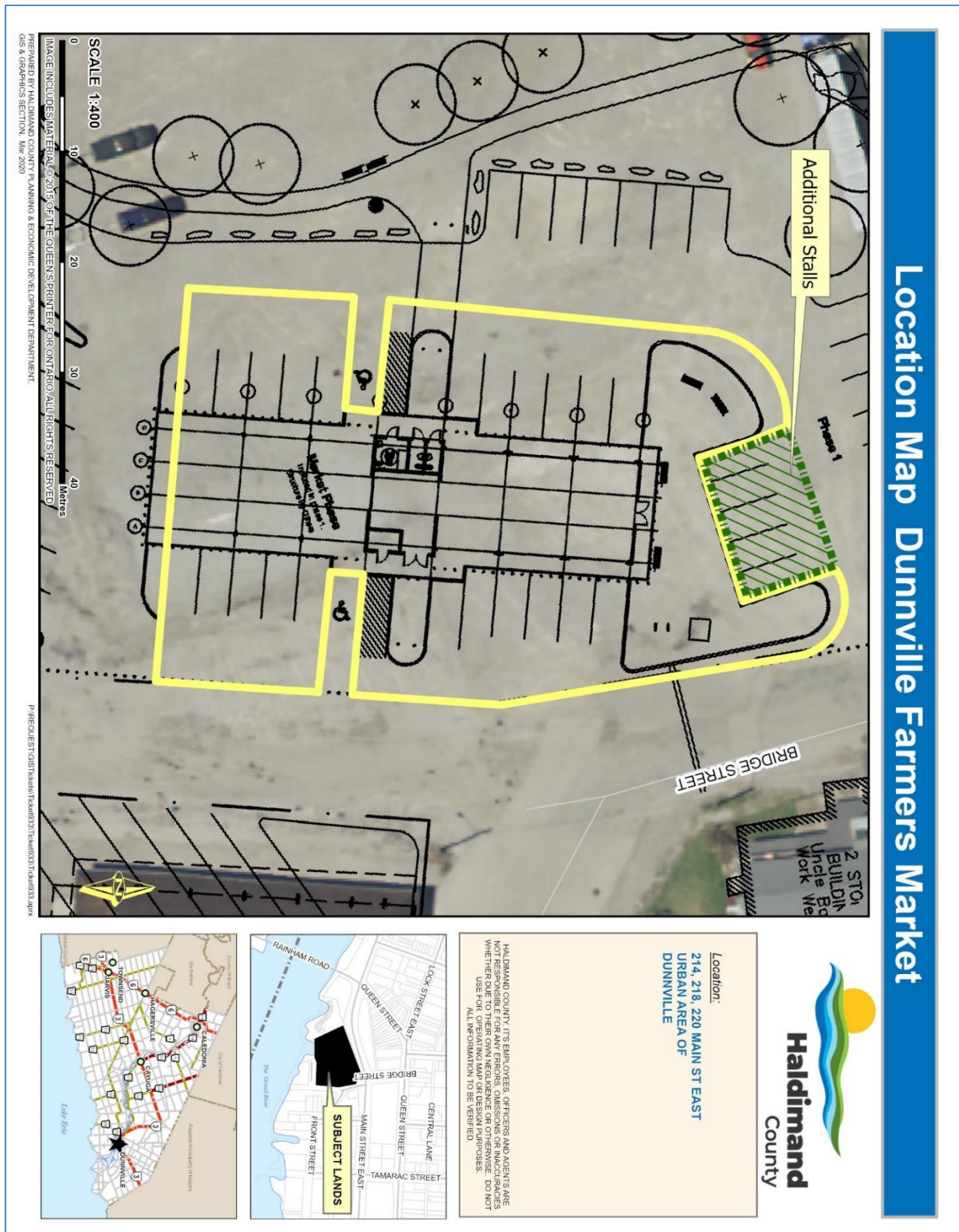
READ a first and second time this 19th day of May, 2020.

READ a third time and finally passed this 19th day of May, 2020.

MAYOR

CLERK

Schedule "A"



Schedule "B"

