THE CORPORATION OF THE CITY OF GUELPH

By-law Number (2009) – 18874
Being a By-law to regulate the operations of the Guelph Farmers' Market, and to repeal By-law Number (1978)-9769, and to adopt Municipal Code Amendment #500, which amends Chapter 184 of The Corporation of the City of Guelph's Municipal Code

WHEREAS Section 113 of the Municipal Act, 2001, S.O. 2001, c.25 (the "Act") provides that, without limiting Sections 9, 10 and 11 of the Act, a local municipality may establish, maintain and operate a farmers market, a flea market and other similar types of markets, and regulate a farmers market, a flea market and other similar types of market of any person, including regulating the hours of operation of a market;

AND WHEREAS the City of Guelph has established a market;

AND WHEREAS the market serves as a public gathering placed for the buying and selling of merchandise, fostering community health and local economic development. The market provides a venue whereby consumers have direct access to locally produced foods and products while farmers, food resellers and artisans have an opportunity to market their goods;

AND WHEREAS the market is a key contributor to the spirit and vitality of the community and in building a social connection between the consumer and producer;

THEREFORE THE COUNCIL OF THE CORPORATION OF THE CITY OF GUELPH ENACTS AS FOLLOWS:

1. For the purposes of this By-law:
   a) **Approval** means approval by the Market Clerk, as set out in Section 23 of this By-law, and "Approved" has the corresponding meaning;
   b) **Arts & Crafts** means handmade goods produced or created by the vendor from raw or basic materials which are changed into a significantly different

shape, design, form or function using a special skill or manual act, and any other goods which are determined by the Arts & Crafts Jury, or by an appeal from the decision of the Arts & Crafts Jury, pursuant to this By-law, to be unique and to add value to the market;

c) **Arts & Crafts Jury** means the Arts & Crafts Jury established under Section 43 of this By-law;

d) **By-Law Enforcement Officer** means the Market Clerk and any other person or persons appointed from time to time by City Council to enforce the provisions of this By-law;

e) **City** means The Corporation of the City of Guelph;

f) **City Council** means the Council of The Corporation of the City of Guelph;

g) **City Policies** means all City policies and Standard Operating Procedures in effect from time to time which relate to the Market, whether established by City Council, or by the Director as provided in this By-law;

h) **City Property** means any good or equipment of any kind, owned by the City, which is on Market Lands or is used in relation to the Market from time to time;

i) **City System** means any operational system relating to the Market Building, including water, plumbing, electrical and heating systems;

j) **Director** means the Director of Operations for the City of Guelph, or his or her designate;

k) **Distribute** includes to make available;

l) **Elected Member** means a member of the Executive Committee who has been elected by the Vendors in accordance with this By-law, and includes a person who is appointed or elected to fill a vacancy of an Elected Member on the Executive Committee, as set out in Section 65, but does not include the Market Clerk.

m) **Electrical Appliance** means any equipment that is designed to use electrical power in any part of its operation, including without limitation any cooler, refrigerator or warming plate;

n) **Emergency Vehicle** means,

i) a vehicle of any fire department;

ii) a vehicle of any police service; or

iii) an ambulance

o) **Executive Committee** means the Guelph Farmers' Market Executive Committee, continued pursuant to Section 47 of this By-law;

p) **Farm Product** – means an agricultural Product, such as fruit, vegetables, meat, poultry, fish, dairy, grains, seeds, honey, maple products, plants and flowers;

q) **License Agreement** means an agreement between a Vendor and the City setting out the terms and conditions of use of a Rental Space;

r) **Market** means the Guelph Farmers' Market, occupying the Market Building and the Market Lot;

s) **Market Building** means the building located on the Market Lands, and any other location as determined from time to time by City Council to be used as a building for the Guelph Farmers' Market;

t) **Market Clerk** means any person(s) appointed by the Director from time to time as the Market Clerk, and includes his or her designate(s);

u) **Market Days** means market days as defined in Section 5 of this By-law, and **Market Day** shall have the corresponding meaning;

v) **Market Hours** means the hours of operation of the Market on a Market Day, as defined in Section 6 of this By-law;

w) **Market Lot** means the paved area adjacent to the Market Building, on the Market Lands;

x) **Market Lands** means all areas of the lands known municipally as 2-4 Gordon Street, as shown generally on Schedule "A" to this By-law, and includes the Market Building and the Market Lot;

y) **Product** includes goods of any kind, such as but not limited to crafts, food and plants;

z) **Provide** when used in relation to a Product, includes to rent, sell or lease, or offer to rent, sell or lease;

aa) **Provide** when used in relation to a Service, includes to furnish, perform or give, or offer to furnish, perform or give, with or without a fee;

bb) **Rental Fee** means the fee or fees for use of Rental Space as set out in Section 25 of this By-law, or as otherwise approved by Council from time to time;

cc) **Rental Space** means a Booth, Stall or Table, as follows:

i) **Booth** means a rental space within the Market Building, other than a Table;

ii) **Stall** means a rental space located in the Market Lot;

iii) **Table** means a rental space within the Market Building consisting of a portion of a table surface;

dd) **Service** includes entertainment;

ee) **Statutory Holiday** means any public holiday or holiday as defined in the Employment Standards Act, 2000, S.O. 2000, c. 41 or the Retail Business Holidays Act, R.S.O. 1990, c. R. 30, as amended from time to time, or any successors thereof;

ff) **Supervisor of Administration** means the Supervisor of Administration of the Operations Department of the City, or his or her designate; and

gg) **Vendor** means a person Approved by the Market Clerk pursuant to this By-law to Provide, Distribute, advertise or demonstrate any Product or Service, literature or information, or to carry on solicitation, on the Market Lands, and who has entered into a License Agreement with the City pursuant to this By-law, and includes the following categories:

i) **Farmer** – means a producer of Farm Products. To qualify as a Farmer, a minimum of 65% of the Products sold or offered for sale must be Farm Products home grown by the Vendor

ii) **Food Reseller** - means a person who sells or offers for sale food purchased from a third party, and includes a person selling Farm Products where less than 65% of the said Products are home grown

iii) **Prepared Food Vendor** – means a person who sells or offers for sale, for consumption, food prepared by the Vendor

iv) **Arts & Crafts Vendor** – means a person who sells or offers for sale Arts & Crafts

v) **Other** – means community-based information or public interest not-for-profit groups

Market Operations

2. The Market established by the City under By-law Number (1978)-9769 is hereby continued, and shall continue to be known as the Guelph Farmers' Market.
3. The Market shall be under the authority of the Director, who shall appoint a Market Clerk(s) and a Supervisor(s) of Administration to carry out the duties set out in this By-law.
4. The Director may,
   a) establish such Standard Operating Procedures relating to the Market as he or she determines appropriate for the purposes of implementing this By-law; and
   b) permit uses of the Market Lands, other than the Rental Spaces, on Market Days by persons other than those Approved under this By-law, for purposes relating to the Market, as set out from time to time in City Policies.

Market Days and Market Hours

5. Subject to Section 7 of this By-law, **Market Days** shall be:
   a) every Saturday throughout the year, except for Statutory Holidays; and
   b) any other days throughout the year, not including Statutory Holidays, as may be determined from time to time at the discretion of the Director
6. Subject to Section 7 of this By-law, **Market Hours** shall be from 7:00 a.m. to 12:00 p.m. on each Market Day, or such additional hours on any Market Day as may be determined from time to time at the discretion of the Director.
7. The Market Clerk may, in his or her discretion, keep the Market closed during a Market Day or Market Hours, or any part thereof, if he or she determines that it is necessary due to an emergency.

Market Clerk

8. a) The Market Clerk shall be responsible for,
      i) administering the operation of the Market, including opening and closing of the Market on Market Days, in accordance with this By-law and City Policies;
      ii) administering and implementing the provisions of this By-law; and

iii) administering and implementing City Policies,

and is hereby authorized to carry out such duties. Where there is more than one Market Clerk, each Market Clerk shall have the authority to individually carry out the duties and exercise the powers of the Market Clerk set out in this By-law.

b) The Supervisor of Administration shall be responsible for:

i) supervising the Market Clerk(s); and

ii) managing the operation of the Market

c) The Supervisor of Administration is authorized to make decisions which are discretionary, regarding the operation of the Market, including allowing accommodations relating to matters otherwise prohibited by this By-law.

9. Without limiting Subsection 8(a) of this By-law, the Market Clerk is authorized to:

a) collect from the Vendors any applicable Rental Fees;

b) create or remove Rental Space;

c) review, and approve or refuse, either in whole or in part, applications submitted in accordance with Section 12 of this By-law;

d) assign Rental Space to Vendors; and

e) execute License Agreements on behalf of the City

Offences

10. No person shall, at any time:

a) Provide, Distribute, advertise or demonstrate any Product or Service, literature or information of any kind, or permit any Product or Service, literature or information to be Provided, Distributed, advertised or demonstrated; or

b) Carry out or permit to be carried out any form of solicitation, on the Market

c) Lands,

except with the Approval of the Market Clerk, as set out in this By-law.

11. a) Without limiting Section 10 of this By-law, no person shall Provide, Distribute, advertise or demonstrate, on the Market Lands or on any highway adjacent thereto:

i) any live animal, including any bird, fish, insect or reptile;

ii) tobacco in any processed or unprocessed form that may be smoked, inhaled or chewed, including snuff;

iii) any beer, spirits, liquor or wine, as defined in the *Liquor Licence Act*,R.S.O. 1990, c. L. 19, as amended from time to time, or any successor thereof;

iv) any tickets, including lottery tickets, raffle tickets and event tickets;

v) any Product or Service whatsoever by public auction; or

vi) any Service of a medical or therapeutic nature

b) The Market Clerk may, in his or her discretion, authorize the Provision, Distribution, advertising or demonstration of a thing or matter set out in s subsection 11(a), and in that case, subsection 11(a) shall not apply to the extent of such Approval.

Application and Approval Process

12. Any person who wishes to:

a) Provide, Distribute, advertise or demonstrate any Product or Service, literature or information of any kind; or

b) carry out any form of solicitation,

on the Market Lands, may apply to the Market Clerk for permission to do so, in a form as determined by the Supervisor of Administration from time to time, and upon approval by the Market Clerk, shall enter into a License Agreement with the City.

13. Applications will be reviewed by the Market Clerk, who will approve or refuse them, in whole or in part, in accordance with this By-law.

14. In the case of an application that proposes to sell or offer for sale a Product which is the same as a Product already being sold or offered for sale at the Market, and which exceeds the limitations for selling of same product as set out in City Policies, the application shall be reviewed by the Executive Committee, who will provide a recommendation to the Market Clerk. The Market Clerk will then make a determination as to whether to approve or refuse the application, in whole or in part. In the interim, the Market Clerk is authorized to grant temporary Approval in accordance with this By-law and City Policies.

15. Any Approval of the Market Clerk under this By-law shall only extend to those Products, Services or activities which are specifically authorized by the Market Clerk, as set out in the License Agreement.

16. If, during the term of the License Agreement, a Vendor wishes to add any Product, Service or activity which has not yet been Approved, they shall submit a written request, in a form as determined by the Supervisor of Administration from time to time, and the Market Clerk may approve or refuse the request, in whole or in part, as set out in this By-law. An Approval under this Section shall come into effect only when the License Agreement has been amended accordingly.

17. Notwithstanding Section 16, where an Approved Vendor submits any application to the City under this By-law, the Market Clerk shall consult with the Executive Committee prior to making a decision to approve or refuse the application.

Approval Process

18. The Market Clerk may, in his or her discretion, refuse to approve an application made pursuant to this By-law, in whole or in part:

    a) if the application is incomplete, as determined by the Market Clerk;

    b) if the Product or Service does not comply with Subsection 11(a) of this By-law;

    c) if the Market Clerk determines that the applicant is not within one of the Vendor categories as defined in clause 1(ff) of this By-law;

    d) if the applicant fails to provide with the application any other approvals as required from time to time by this By-law or the City Policies, or where any such approval has been refused;

    e) if there is insufficient appropriate Rental Space available at the Market;

    f) based on the City Policies, including without limitation the seasonal percentage occupancy rate established for the Vendor categories defined in clause 1(ff) of this By-law;

    g) where the conduct of the applicant, including the conduct of any officer, director, employee or agent of the applicant, affords reasonable cause to believe that the applicant will not carry on or engage in the activity in accordance with the law or with honesty and integrity;

h) where the proposed activity is or would be in contravention of:

i) this By-law or any other applicable City By-law;

ii) any of the City Policies;

iii)any of the rules and regulations approved by the Director from time to time in relation to the Market; or

iv) any applicable statute, regulation or instrument issued thereunder; or

i) where the applicant has past convictions under this By-law, or under any other By-law, statute or regulation, relating to the activity

19. Applicants wishing to Provide food of any kind must submit with their application an approval letter from Wellington-Dufferin-Guelph Public Health covering all food items that they are applying to Provide at the Market. A new letter of approval must be submitted with each application, or with any request for a new food item that is submitted by a Vendor pursuant to Section 16 of this By-law.

20. All Approvals shall be deemed to cease immediately upon the expiry or termination of the License Agreement.

21. In the event of refusal of an application by the Market Clerk, in whole or in part, the Market Clerk shall advise the applicant in writing of such refusal and the reasons for the refusal, by regular mail to the address of the applicant as shown on the application, and Sections 78-87 of this By-law shall apply to any such refusal.

Assignment of Rental Space

22. Rental Space will be assigned to approved vendors by the Market Clerk based on the City Policies, and will be identified in the License Agreement.

License Agreement

23. For purposes of this By-law, Approval:

a) shall commence only once a fully executed License Agreement has been entered into between the City and the Vendor;

b) extends only to the Product, Service, literature, information or solicitation specifically itemized in the License Agreement; and

c) shall terminate upon the expiry or termination of the License Agreement

24. The License Agreement shall be in a form satisfactory to the Director and shall contain such terms and conditions as determined by the Director from time to time.

25. Rental Fees shall be included in the License Agreement, and shall be calculated as follows:

    a) for existing vendors as of the date of passing of this By-law, the fee currently being charged to them shall be incorporated into their new License Agreement if Approved, for the term of such Agreement; and

    b) for all new vendors, or any subsequent License Agreement for existing vendors, the fees set out in Schedule "B" of this By-law, as amended by Council from time to time, shall apply

26. Each License Agreement shall be valid only for the duration of the term noted therein. Any Vendor wishing to continue to Provide, Distribute, advertise or demonstrate any Product, Service, literature or information of any kind, or carry out any form of solicitation, on the Market Lands, following the date of expiry or termination of a License Agreement, may reapply pursuant to this By-law, either before or after the date of expiry or termination of the License Agreement, and shall not continue such activities past the date of expiry or termination unless and until an Approval is granted by the City in accordance with this By-law.

27. The Market Clerk is authorized to terminate a License Agreement, in accordance with any applicable provisions of the License Agreement and City Policies:

    a) if the Vendor fails to comply with any provision of the License Agreement, including without limitation failing to make any payment as required by the License Agreement;

    b) if the Vendor fails to comply with any provision of this By-law or the City Policies;

    c) if the Vendor's Rental Space is vacant for a total of more than one (1) Market Day during the term of the License Agreement, without providing a minimum of seven (7) business days' prior written notice to the Market Clerk for each vacancy;

    d) if the Vendor fails to comply with any other City by-law, or with any

provincial or federal statute, regulation or instrument issued thereunder, applicable to the Vendor's activities at the Market, or to any Product, Service, literature, information or solicitation Provided or Distributed by or on behalf of the Vendor at the Market; or

e) if the Vendor fails to comply with any conditions imposed by Wellington-Dufferin-Guelph Public Health in relation to an approval provided for any food item,

or as may be otherwise set out in the provisions of the License Agreement.

28. The Vendor may terminate a License Agreement upon seven (7) business days' prior written notice to the Market Clerk, in accordance with any applicable provisions of the License Agreement and City Policies.

29. In the event of early termination of the License Agreement by the City or by the Vendor in accordance with Section 27 or 28, the Vendor shall be entitled to a refund of monies paid for the unexpired portion of the term thereof. The Vendor is not entitled to a refund if notice is not given in accordance with Section 28. In addition, the Vendor is not entitled to a refund for any missed Market Days during the term of the License Agreement, except to the extent that the City may, at its discretion, recover such monies by way of renting out the space to an alternate Vendor.

30. a) No Approval or License Agreement may be transferred or assigned, except as set out in Subsection 30(b) or (c).

b) Upon written notification being made to the Market Clerk of the death of a Vendor, the License Agreement may be assigned to a member of the immediate family of the Vendor upon request, for the remainder of the term, provided that:

i) the business continues to operate using the same business name;

ii) the business continues to Provide, Distribute, advertise or demonstrate the same Products, Services, literature or information; and

iii) the new Vendor agrees in writing to comply with the terms and conditions of the License Agreement.

The term of the License Agreement shall remain unchanged.

c) If a transfer is not requested pursuant to clause (b), a refund of the fee paid relating to the unexpired portion of the term shall be made to the immediate family of the deceased Vendor. Upon request from an immediate family member, the remainder of the term of such License Agreement may be transferred to another Vendor provided that:

i) the business continues to operate using the same business name;

ii) the business continues to Provide, Distribute, advertise or demonstrate the same Products, Services, literature or information; and

iii) the new Vendor agrees in writing to comply with the terms and conditions of the License Agreement.

The term of the License Agreement shall remain unchanged.

Vendor Regulations

31. An Approval shall be valid only for those Products, Services, literature, information or activities identified in the License Agreement.

32. Every Vendor shall ensure that:

a) the terms and conditions of the License Agreement and of this By-law are complied with at all times; and

b) all Products, Services and activities comply at all times with all applicable law, including without limitation the Health Protection and Promotion Act, R.S.O. 1990, c. H.7, and all regulations thereto, as amended from time to time, or any successor thereof, and with any conditions imposed by Wellington-Dufferin-Guelph Public Health in relation to an approval provided for any food item

33. No Vendor shall cause or permit:

a) any Electrical Appliance to be brought into their Rental Space, or used on Market Lands;

b) alteration or damage of any kind to any City Property or City System, or to the Market Lands, including attaching any shelving or similar material to the walls of the Market Building;

c) connection to any City System;

d) interference in any manner with the operation of City System; or

e) any free-standing equipment or other device, including shelving units, to be brought onto or used on the Market Lands,

except as may be permitted in writing by the City;

34. Except with the prior authorization of the Market Clerk, no Vendor shall cause or permit any food to be left at the Market between 2:00 p.m. on Market Day and 8:00 a.m. on the following Thursday unless stored within a refrigerator unit that has been permitted by the City in the License Agreement. The City is not responsible for any lost, damaged or stolen Products, equipment or other items left or stored on the Market Lands.

35. No Vendor shall cause or permit any Product to be left on the floor of Market Building outside of Market Hours.

36. No Vendor shall allow the use of the Rental Space by any person who is not an employee or agent of the Vendor carrying out activities as defined in the License Agreement, on behalf of the Vendor.

Access to Market; Opening and Closing of Market

37. a) No Vendor shall enter the Market Building or commence set-up for Market Day, except between 8:00 a.m. on Thursday and 2:00 p.m. on Market Day, or as may be authorized by the Supervisor of Administration from time to time.

b) In the event that a Vendor fails to occupy their Rental Space by 7:30 a.m. of a Market Day, without forty-eight (48) hour notification to the Market Clerk before Market Day, the Market Clerk may, but is not required to, allow another Person to occupy that location, in accordance with this By-law. The Vendor remains responsible for the fee pertaining to that day in the event that the Market Clerk was unable to or chooses not to rent out the space.

38. No Vendor shall open the Market Building to the public, or close the Market Building to the public.

39. No Vendor shall:

a) permit a member of the public into the Market Building; or

b) Provide, Distribute, advertise or demonstrate any Product, Service, literature or other information, or carry on any solicitation, on Market Lands, outside of Market Hours .

General Market Rules and Regulations

40. Unless so authorized by the Market Clerk, where signs to that effect are posted, no person shall move or operate any vehicle within the Market Lot during Market Hours, at any time between 7:00 a.m. on April 1 and 12:15 p.m. on November 30.

41. Section 40 of this By-law does not, if compliance therewith would be impractical, apply to an Emergency Vehicle or a City-owned vehicle, while actually engaged in work authorized by the organization for whom the vehicle is operated.

Other

42. Subject to section 13(3) of the Smoke-Free Ontario Act, S.O. 1994, c. 10, as amended from time to time, or any successor thereof, and in addition to any other by-law, statute or regulation, no person shall smoke or hold lighted tobacco at any time in any location on the Market Lands, including within the Market Building.

Arts & Crafts Jury

43. The Arts & Crafts Jury is hereby established, and shall consist of five (5) representatives, as follows: 1 Arts & Crafts Guelph Farmers' Market Executive Committee member, 1 Guelph Arts Council member, 1 member of the general public, 1 Arts & Craft Vendor and 1 other member of the Guelph Farmers' Market Executive Committee.

44. Members of the Arts & Crafts Jury shall be selected by the Director and shall hold office for a term of twenty-four (24) consecutive months. In the event of a vacancy during the term, the Director shall appoint a replacement as soon as practicable. In the interim, the Arts & Crafts Jury may, with the consent of the Director, continue to carry out its duties with the remaining members.

45. The Arts & Crafts Jury shall act as an advisory body to the Market Clerk, and shall perform any additional functions as set out in this By-law and the City Policies from time to time.

46. Where an application is made in relation to Arts & Crafts, the Market Clerk shall consult the Arts & Crafts Jury, who will review the application and make a recommendation as to whether the Product falls within the definition of Arts & Crafts. The Market Clerk then determine whether to approve or refuse the

application. In the interim, the Market Clerk is authorized to grant temporary Approval in accordance with this By-law and City Policies.

Guelph Farmers' Market Executive Committee

47. The Guelph Farmers' Market Executive Committee is hereby continued.

48. The Executive Committee shall have six (6) Elected Members, which shall include representation from each type of vendor as follows:

    Farmer – 2

    Food Reseller – 1

    Prepared Food Vendor – 1

    Arts & Crafts Vendor – 1

    Other – 1

49. Any Vendor whose License Agreement with the City is in good standing, and who has been present at the Market for at least twelve (12) collective months in the previous two (2) calendar years, is eligible for the Executive Committee.

Election of Executive Committee

50. Executive Committee members shall hold office for a term of twenty-four (24) consecutive months, and shall remain in office for thirty (30) calendar days following the next election date.

51. Election of the Executive Committee will be carried out under the direction of the Market Clerk and shall be by written ballot. The Market Clerk will prepare the nomination and election forms.

52. The election date shall be fixed by the Market Clerk on a bi-annual basis, and shall, unless the Market Clerk determines otherwise, be during the first (1st) quarter of the calendar year (the "election date"). If the election date is not prior to the expiration of the previous term of the Executive Committee, the existing Executive Committee members shall remain in office until thirty (30) calendar days following the election date.

53. Any Vendor who is eligible under Section 49 of this By-law and wishes to run for the Executive Committee shall submit a nomination form, signed by at least two (2) supporting Vendors and signed by the nominee.

54. Nominations shall be submitted to the Market Clerk by the nominee no later than four (4) weeks prior to the election date.

55. To be eligible for voting, a Vendor must have been at the Market for at least six (6) collective months during the previous two (2) calendar years.

56. There shall be one (1) ballot per License Agreement, which will be distributed at least two (2) weeks prior to the election date. The ballot shall contain the names of the nominees in each category. Each Vendor may vote for a maximum number of nominees in each category as set out under Section 48 of this By-law. Any ballots which are not in accordance with this Section shall be discarded and will not be counted in the vote.

57. Vendors may send in their completed ballot by regular or registered mail to the Market Clerk to the following address:

    Guelph Farmers' Market, Operations Dept

    c/o City Hall

    1 Carden St., Guelph ON N1H 3A1

    Attention: Market Clerk

58. Alternatively, Vendors may attend the Market on the election date, during the times to be determined by the Market Clerk, to submit their completed ballot. Proxy votes are not permitted. If the ballot is not actually received at the address set out in Section 57 by the end of the Market's Business Hours on the election date, or submitted at the Market during the times on the election date as determined by the Market Clerk, it shall not be counted.

59. The Market Clerk shall select one (1) member of the outgoing Executive Committee, who is not a nominee in the current election, or if none are available, then two (2) Vendors that have not been nominated, to assist the Market Clerk in counting the ballots. The final results of the ballot count must be signed by all such persons.

60. The successful nominees for the Executive Committee will be determined by majority of votes. The Market Clerk will advise in writing of the election results by Market Newsletter and posting at the Market.

61. Any Vendor who disputes the results of the election may, in writing, request a recount within fourteen (14) calendar days of the date on which notice of the election results is posted by the Market Clerk at the Market in accordance with Section 60 of this By-law, and upon such request, the Market Clerk, with the assistance of those persons identified in Section 59, shall carry out a recount within seven (7) calendar days and advise all Vendors of the results as set out in Section 60.

62. Ballots shall be retained by the Market Clerk for ninety (90) days after notice is given of the election result under Section 60, and may then be destroyed by the Market Clerk in the presence of the persons set out in Section 59, unless a recount has been commenced and not finally disposed of or unless otherwise ordered by a Court.

63. In the event of a tied vote for the winner of any Executive Committee position, the Market Clerk shall, with the assistance of those persons identified in Section 59, carry out a recount. If a tie remains for the winner of any Executive Committee position, the decision will be made by the flipping of a coin by the Market Clerk in the presence of those persons identified in Section 59. The results of any such recount and of any flipping of a coin, shall be provided by the Market Clerk to all Vendors as set out in Section 60.

64. The Executive Committee members will take office thirty (30) calendar days following the election date.

65. In the event of resignation or death of a member of the Executive Committee during the term, the position will be given to the nominee in that category with the next greatest number of votes, if interested. If there is no further nominee in that category, or they decline to take the position, the Market Clerk will hold a new vote to fill that position for the remainder of the existing term, and Sections 51-64 of this By-law shall apply, provided that:

    a) The election date shall be no later than sixty (60) days after the City receives notification of the vacancy; and

    b) The newly Elected Member shall take office immediately upon finalization of the election results in accordance with Sections 60 and 61 of this By-law

66. During any time where the number of Elected Members of the Executive Committee is less than six (6) as a result of the death or resignation of a member, the Executive Committee shall continue to operate with the remaining members, provided that if the number of Elected Members remaining is less than the quorum established in Section 74, the Executive Committee may only make decisions with the votes of all remaining Elected Members.

67. The Market Clerk is a member of the Executive Committee, but may not vote. If there is more than one (1) Market Clerk, any number of the Market Clerks may be appointed by the Supervisor of Administration to be members of the Executive Committee.

Operation of the Executive Committee

68. The Executive Committee shall elect by majority vote, the Market Clerk or one of their Elected Members as a Chairperson, with the consent of that person, to call and chair the meetings of the Executive Committee. Alternatively, the Executive Committee may, by majority vote, agree to rotate the Chairperson role amongst the Market Clerk and Elected Members.

69. The Chairperson or Market Clerk shall call meetings of the Executive Committee in accordance with this By-law. Additional meetings may be called by any member of the Executive Committee.

70. The Chairperson may designate another member of the Executive Committee, with that person's consent, to chair any meeting of the Executive Committee or to carry out any other function of the Chairperson.

71. The Market Clerk shall prepare the agenda and transcribe minutes for all meetings of the Executive Committee. The minutes shall be signed by the Market Clerk and one (1) other member of the Executive Committee, and forwarded to the Director and Supervisor of Administration. The Market Clerk shall post the signed copy of the minutes at the Market.

72. The Executive Committee shall meet at least quarterly, plus one annual meeting. Meeting dates of the Executive Committee will be at the call of the Chairperson or the Market Clerk, or upon the request of an Elected Member of the Executive

Committee. A quarterly meeting may be cancelled by the Market Clerk if it is determined that there are insufficient agenda items.

73. Every Elected Member of the Executive Committee must attend at least seventy-five percent (75%) of the meetings of the Committee held in order to maintain status as a member of the Committee. The Supervisor of Administration may, upon providing written notice, remove a member of the Executive Committee for failure to comply with this provision, and any such vacancy will be treated as a vacancy by resignation for purposes of Sections 65 and 66 of this By-law.

74. A quorum of the Executive Committee will be four (4) Elected Members.

75. No meeting of the Executive Committee shall be held in the absence of the Market Clerk. If the Market Clerk is unable to attend or does not attend a meeting, the meeting shall be postponed and rescheduled by the Market Clerk.

76. All decisions of the Executive Committee shall be determined by vote. Voting shall be by way of a hand count, and shall be recorded by the Market Clerk or Chairperson. A tied vote shall be considered a loss.

Role of the Executive Committee

77. The Executive Committee shall:

a) consider and make recommendations relating to all disputes relating to the decision of the Market Clerk to refuse, in whole or in part, any application, in accordance with this By-law;

b) at the request of the Market Clerk, make recommendations to the Market Clerk relating to applications for same Product, Service, literature or information which exceed the limitations set forth in City Policies. The recommendations shall be based on the considerations identified in the City Policies; and

c) at the request of the Market Clerk, provide recommendations or carry out any other role as identified in the City Policies, based on the considerations identified in such Policies.

Dispute Resolution

78. a) All disputes relating to the decision of the Market Clerk to refuse, in whole or in part, any application shall be submitted by the applicant (the "applicant") in

writing to the Market Clerk, within fourteen (14) calendar days of the date of the decision in accordance with Subsection 78(b). If a written dispute is not deemed received by the Market Clerk prior to on at 4:00 p.m. on the fourteenth (14th) calendar day following the date of the decision, in accordance with clause (b), the decision of the Market Clerk shall be final and binding.

b) Any document to be delivered under clause (a) shall be delivered by hand to the Market Clerk or by registered mail to the Market Clerk at the address set out in Section 57 of this By-law. If delivered by hand, the document shall be deemed to be received on the date and time of such delivery, and any document sent by registered mail shall be deemed to be received at 4:00 pm on the fifth business day following its postmarked date.

Executive Committee

79. a) The Market Clerk shall forward to all members of the Executive Committee as soon as practicable, a copy of any dispute received which complies with Section 78, and shall call a meeting of the Executive Committee to discuss the matter no later than thirty (30) calendar days after deemed received of the dispute as determined in accordance with Subsection 78(b).

b) The Market Clerk shall, on behalf of the Executive Committee, provide written notice of the meeting date and purpose of the meeting in writing to the applicant at least fourteen (14) calendar days in advance of the meeting date.

80. The applicant shall be provided with an opportunity to make submissions at the meeting of the Executive Committee. Deliberations of the Executive Committee may be held in private.

81. For the purposes of the meeting, the Market Clerk shall not be considered to be a member of the Executive Committee. If the Chairperson is the Market Clerk, he or she shall appoint one of the Elected Members of the Executive Committee, with their consent, to act as Chairperson for the duration of the meeting and to forward the recommendation of the Executive Committee as set out in Section 88 of this By-law.

82. The Market Clerk shall take the minutes of the meeting and the deliberations and shall provide them to the Chairperson.

83. The Executive Committee shall consider and review the submissions of the applicant, and shall make a recommendation, including reasons, in writing, based on a majority of votes by the voting members. If the recommendation of the Executive Committee and the decision of the Market Clerk are in agreement, then the decision rendered by the Market Clerk shall be final. In that case, the Market Clerk shall forward a copy of the recommendation of the Executive Committee and the final decision to the applicant.

Supervisor of Administration

84. If the recommendation of the Executive Committee varies from the decision of the Market Clerk, then the Market Clerk shall forward a copy of the recommendation of the Executive Committee, including the reasons for the decision, along with the minutes of the meeting and the original decision of the Market Clerk, to the Supervisor of Administration, the Market Clerk and the applicant, with a request for the Supervisor of Administration to review the matter.

85. The Supervisor of Administration shall review the matter, in consultation with the Market Clerk and the Executive Committee, and if agreement is reached between the Supervisor of Administration, the Market Clerk and a majority of the voting members of the Executive Committee, such decision shall be final and shall be forwarded in writing, with reasons, to the applicant.

Director

86. If no agreement is reached in accordance with Section 85, the matter shall be forwarded to the Director for a decision, along with copies of the original decision and reasons of the Market Clerk, the recommendation and reasons of the Executive Committee and minutes of the Executive Committee meeting. The applicant shall be notified in writing that the matter has been forwarded to the Director. The decision of the Director shall be final, and a copy of the decision, including reasons, shall be forwarded in writing by the Director to the applicant, the Executive Committee, the Supervisor of Administration and the Market Clerk.

Delivery of Documents

87. All documentation required to be provided to the applicant by the City pursuant to this By-law shall be hand delivered to the applicant or shall be sent by registered mail to the applicant at the address set out in the application or to such other address as provided by the applicant. If delivered by hand, the documentation shall be deemed to be received on the date and time of such delivery, and any documentation sent by registered mail shall be deemed to be received at 4:00 pm on the fifth business day following its postmarked date.

Miscellaneous

88. In the event that any provision(s) of this By-law is found to be invalid or ultra vires by a Court of competent jurisdiction, such provision(s) shall be deemed to be severable and all other provisions of this By-law shall be deemed to be separate and independent therefrom and enacted as such.

Enforcement and Penalties

89. Every By-law Enforcement Officer is authorized to carry out the enforcement of this By-law.

90. Any person who contravenes a provision of this By-law is guilty of an offence and, upon conviction, subject to a maximum fine of $100,000.

91. The penalty set out in Section 90 shall be in addition to, and without limiting, any other remedy available at law, including termination of the License Agreement.

Existing Vendors - Transition

92. a) Subject to Subsections 92(b) and (c) of this By-law, existing vendors at the Market at the time of passing of this By-law shall be subject to the provisions of this By-law as of the effective date of the By-law.

b) Notwithstanding Section 10 of this By-law, existing vendors shall have thirty (30) calendar days, or such further period of time as may be granted by the Market Clerk, in which to submit a completed application to the Market Clerk pursuant to Section 12.

c) Any existing vendor who fails to submit an application within thirty (30) calendar days of the date of passing of this By-law or such further period of time as has been granted to them by the Market Clerk, or whose application is

not Approved in accordance with the provisions of this By-law, shall be considered in contravention of Section 10 if they continue to operate at the Market without Approval to do so after the expiration of the thirty (30) day period.

d) In the case of an existing vendor who is found not to be within one of the Vendor categories as defined in clause 1(ff) of this by-law, the vendor shall be provided with written notice to vacate the Market, and shall be in contravention of Section 10 of this By-law if he or she continues to operate at the Market following that time. Written notice shall be one (1) month for every year at the Market, to a maximum of twelve (12) months, and a minimum of one (1) month.

e) For all other vendors who do not meet a requirement set out in this By-law or pursuant to City Policies, and are not grandfathered pursuant to the City Policies, the vendor shall be provided within thirty (30) days written notice to vacate the Market, and shall be in contravention of Section 10 of the By-law if he or she continues to operate at the Market following that time.

Repeal By-law

93. That By-law Number (1978) – 9769 is hereby repealed.

Municipal Code Amendment

94. This By-law is hereby adopted as Municipal Code Amendment #500, amending Chapter 184 of The Corporation of the City of Guelph's Municipal Code.

Effective Date

95. This By-law shall be effective as of the date of passing.

PASSED THIS TWENTY-SIXTH DAY OF OCTOBER, 2009.

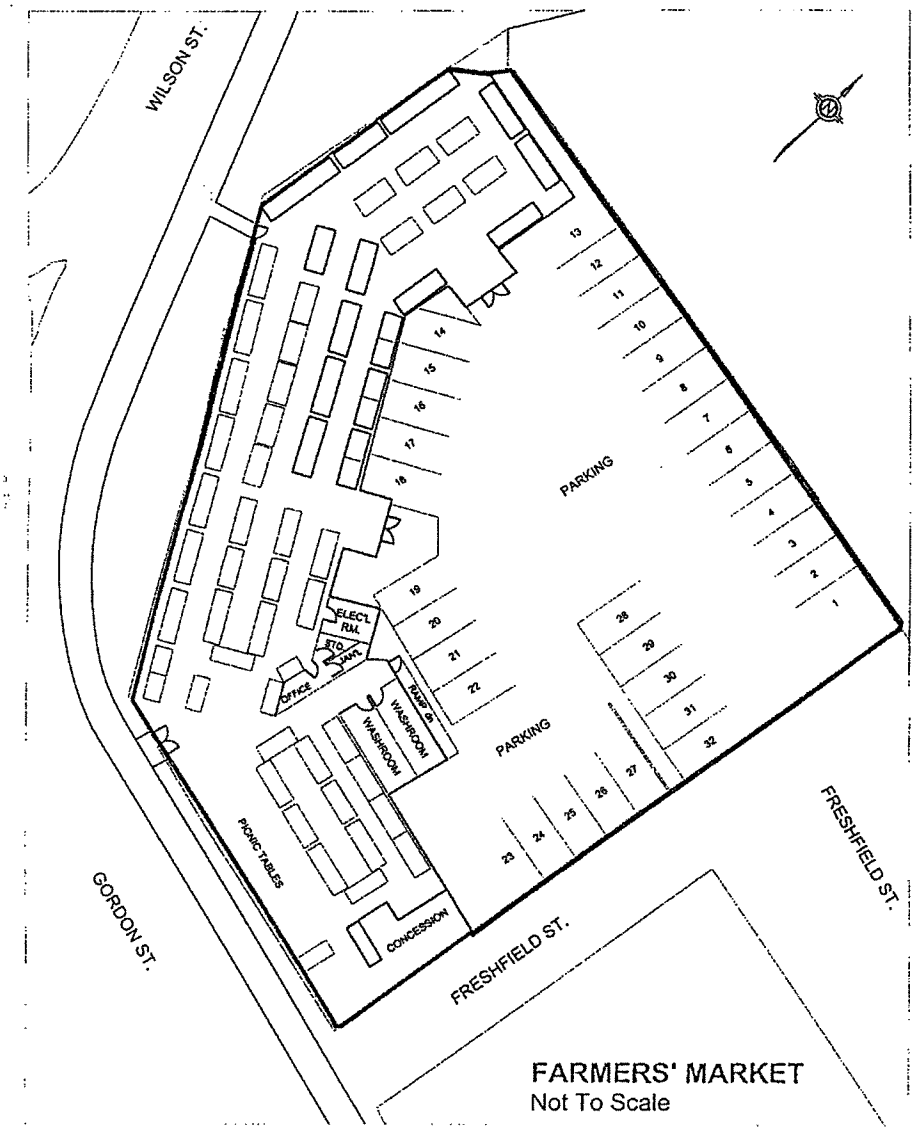
KAREN FARBRIDGE – MAYOR

LOIS A. GILES – CITY CLERK

Schedule "A"

To By-law Number (2009)-18874

MARKET LANDS



Schedule "B"

To By-law Number (2009)-18874

FEES

Booths

(Fees do not include any applicable taxes)

Number	Rental Fee
1	$28.56
2	$28.56
3	$28.56
4	$28.56
5	$23.80
6	$40.80
7	$19.04
8	$14.28
9	$76.39
10	$40.46
11	$38.08
12	$37.69
13	$63.33
14	$23.80
15	$52.36
16	$33.33
17	$45.22
18	$16.66
19	$47.60
20	$33.32
21	$45.22
22	$14.28
23	$30.94
24	$14.28
25	$11.90
26	$19.04
27	$9.53

Table Space
$2.38 per foot plus applicable taxes; minimum of 4ft

Outside Stalls
$22.50 per stall plus applicable taxes

Electrical charge of $0.34 per foot per day plus applicable taxes. The electrical charge may be applied for either a 7-day or 3-day period, as more particularly set out in the License Agreement.