



THE CORPORATION OF THE TOWN OF ORANGEVILLE

BY-LAW NUMBER 102-2008

A BY-LAW TO LICENSE, REGULATE AND GOVERN MOBILE FOOD AND REFRESHMENT VENDING IN THE TOWN OF ORANGEVILLE.

WHEREAS Section 150 of the *Municipal Act, 2001*, provides that a municipality may license, regulate and govern any business wholly or partly carried on within the municipality, even if the business is being carried on from a location outside the municipality;

AND WHEREAS The Corporation of the Town of Orangeville deems it expedient to license, regulate and govern mobile food and refreshment vending in the Town of Orangeville;

BE IT THEREFORE ENACTED by the municipal council of The Corporation of the Town of Orangeville as follows:

1 SHORT TITLE

This by-law shall be known as the "Mobile Food Vendor's By-law".

2 DEFINITIONS

In this by-law:

"Central Business District" means the area outlined in Schedule "A" attached hereto.

"charitable organization" means an organization which is created primarily for a charitable object or purpose in Ontario, is operated not for profit, and includes a religious organization or minor sports group.

"chip truck" means a vehicle or trailer of sufficient size to allow a person to prepare therein french fried potatoes, and from within which french fried potatoes, hamburgers, hot dogs, hot or cold beverages, non-hazardous pre-packaged foods, such as potato chips, popcorn, nuts, candy bars and similar non-hazardous confections may be sold.

"Clerk" means the Clerk of The Corporation of the Town of Orangeville.

"Council" means the Council of The Corporation of the Town of Orangeville and, with respect to the holding of hearings or any hearing, includes, as the context allows, a committee under Section 252 of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended, authorized to hold any such hearing or hearings.

"food cart" means a cart which is propelled by muscular power and is equipped with cooking or barbeque grills on which to prepare hot food, and such push cart shall not exceed overall dimensions of 75 centimetres in width and 1.5 metres in length.

"ice cream bicycle" means an insulated container for storing and transporting frozen ice cream, propelled totally by muscular power without motorized assistance and from which ice cream and other frozen confections may be sold.

"ice cream truck" means a vehicle modified to transport frozen ice cream from place to place, which is duly licensed by the Ministry of Transportation and is capable of being driven on highways or within municipalities and from which ice cream and other frozen confections may be sold.

"licence" means a licence i to permit the operation of a refreshment vehicle or refreshment stand in the Town of Orangeville, issued under the provisions of this by-law, which may be subject to conditions.

"licensee" means any person who is licensed as required by this by-law.

"Licensing Officer" means the Clerk of the Town or his designate.

"mobile lunch truck" means a vehicle modified to transport food preparation and serving equipment from place to place, which is duly licensed by the Ministry of Transportation and is capable of being driven on highways or within municipalities.

"Market on Broadway" means a group of vendors operating refreshment vehicles or refreshment stands from the approved market location.

"Officer" means a municipal by-law enforcement officer, provincial offences officer, police officer, medical officer of health, licensing officer or public health inspector.

"proof of insurance" means a certified copy of a policy of insurance or a certificate of insurance issued by a company authorized to carry on the business of insurance in the Province of Ontario in accordance with the *Insurance Act*, R.S.O. 1990, c.l.8, as amended, that shows proof of liability coverage as required by this by-law.

"refreshment vehicle" means any vehicle from which food and refreshments are for sale or sold for consumption by the public, and includes, without limiting the generality of the foregoing, a chip truck, food cart, ice cream bicycle, ice cream truck and mobile lunch truck, irrespective of the type of power employed to move the refreshment vehicle from one point to another.

"refreshment stand" means any facility (other than a restaurant or similar permanent establishment) from which food and refreshments are for sale or sold for consumption by the public on a seasonal basis, but does not include a refreshment vehicle.

"Special Function Permit" means a permit issued by the Parks and Recreation Department to hold an event on municipal property under the control of the Parks and Recreation Department.

"Town" means The Corporation of the Town of Orangeville and its locality including its geographic area.

"waste" includes food, disposable eating utensils, paper, wooden, cardboard, plastic, glass or metal products used in the preparation, serving or consumption of the food or beverages offered for sale from a refreshment vehicle or refreshment stand.

3 REQUIREMENT FOR LICENCE

- 3.1 No person shall operate any refreshment vehicle or refreshment stand within the Town of Orangeville, unless he has obtained a licence in accordance with the requirements of this by-law or is otherwise exempt under the provisions of this by-law.

4 FEE REDUCTION

- 4.1 Non-profit community associations, charitable organizations, service clubs and other organizers of special fund-raising events carried on solely for the benefit of a particular charity or non-profit organization are required to obtain a licence to operate any refreshment vehicle or refreshment stand and comply with the requirements of this by-law. Provided that the person, organization, association or service club is directly responsible for the vending operation, the fee for such licence shall be reduced as set out in Schedule "B" to this By-law.
- 4.2 The Market on Broadway, the Orangeville Business Improvement Area (BIA) and organizers of Town initiated events are required to obtain a Mobile Food Vendor's Licence to permit the operation of refreshment vehicles and refreshment stands from the market location and during outdoor events organized by the BIA or initiated by the Town. The Market on Broadway, the BIA and Town initiated events are exempt from the provisions of this by-law limiting the number of vendors permitted to operate in the Central Business District.

Participating vendors will not be required to obtain individual licences provided they do not operate outside the Market, the BIA or area specified for a Town initiated event. The licence fee for the Market on Broadway, the BIA and Town initiated events shall be waived.

For greater clarification, all persons operating any refreshment vehicle or refreshment stand in areas other than or in addition to the Market on Broadway, BIA outdoor events or at a Town initiated event are required to obtain a licence, pay the prescribed fee and comply with the requirements of this by-law.

5 APPLICATION AND LICENCE FEE

- 5.1 Every applicant for a licence or a licence renewal, as required by this by-law, shall file with the Licensing Officer a completed application in the form prescribed by the Clerk and such other information or documentation as the Licensing Officer may require, and shall pay the required licence fee as set out in Schedule "B" to this by-law.
- 5.2 No fee pursuant to Section 5.1 shall be pro-rated for a portion of the year.
- 5.3 No licence issued under the provisions of this by-law shall be assigned, transferred, leased or granted the right to use to any other person.
- 5.4 Every change of address or telephone number of any person licensed under this by-law shall be reported to the Licensing Officer within fifteen (15) days.
- 5.5 Every person applying for a licence, as required by this by-law, shall file with the Licensing Officer proof of insurance as set out in section 10 herein.
- 5.6 Every fee paid for a licence under this by-law is refundable if the licence applied for is not issued by the Licensing Officer.
- 5.7 Acceptance of the licence fee does not constitute approval of the application or oblige the Town to issue a licence.
- 5.8 Upon receipt of each application completed in accordance with the requirements of this by-law, the Licensing Officer shall request comments or reports from other Town departments as appropriate or make such other inquiries and obtain and review such other information and documents relevant to the application as the Licensing Officer considers necessary for the proper processing of the application.
- 5.9 No licence shall be issued until the applicant has obtained approval from the Orangeville Fire Department and Wellington-Dufferin-Guelph Public Health.

- 5.10 If a report adverse to the application is received by the Licensing Officer and cannot be resolved by staff, such application and all other pertinent information shall be forwarded to Council for its decision as to whether a licence shall be issued or refused.

6 COMMENCEMENT AND EXPIRY OF LICENCE

- 6.1 Any licence issued under the provisions of this by-law shall be for the current year and shall expire on the 31st day of January following the year of issue, or until said licence is revoked or suspended.

7 RENEWAL

- 7.1 Every person licensed under this by-law shall make application for the renewal of such licence prior to the expiration of the said licence and in any event no later than two (2) weeks prior to the expiry date.
- 7.2 Unless the Licensing Officer has determined that the information contained within a renewal application has changed from the original application, a renewal application need not be circulated to other departments.
- 7.3 Notwithstanding Section 7.2, no renewal licence shall be issued until the applicant has obtained approval from the Orangeville Fire Department and Wellington-Dufferin-Guelph Public Health.
- 7.4 The holder of a licence for the operation of a food cart in the Central Business District in the previous year shall have the right of first refusal before the said licence is offered to a new applicant, provided that the holder of the licence has made an application for renewal no later than January 15th of the following year in which the licence was first issued.

8 LIMITATION ON NUMBER

- 8.1 The number of licences issued annually to permit the operation of an ice cream bicycle, ice cream truck, chip truck, mobile lunch truck or refreshment stand shall not be limited.
- 8.2 The number of licences issued annually to permit the operation of a food cart shall be limited to a maximum of six (6), with a maximum of three (3) of the six (6) licences being issued for locations in the Central Business District.

9 LOCATION REQUIREMENTS

- 9.1 Refreshment vehicles or refreshment stands may be permitted to operate only in CBD, C1, C2, C3 and M1 Zones, as defined in the Town's Zoning By-law.

- 9.2 Notwithstanding Section 9.1, at the discretion of the Licensing Officer, refreshment vehicles or refreshment stands may be permitted to operate in an Institutional (INST) Zone with a licence provided that the funds from the sale of the food are used for charitable purposes.
- 9.3 No person shall operate any refreshment vehicle or refreshment stand from any property except from a location or locations approved by the Licensing Officer and as listed on the licence for such refreshment vehicle or refreshment stand.
- 9.4 No person shall operate a refreshment vehicle or refreshment stand on any municipal property, which shall, for the purposes of this by-law, include road allowances, municipal parks, parking lots, Operations Centre and recreation facilities, except as described in Sections 9.5, 9.11, and 14.
- 9.5 The operation of a refreshment vehicle or refreshment stand may be permitted in a municipal park or facility under the control of the Parks and Recreation Department during a special event/tournament for which a Special Function Permit has been obtained by a non-profit community association or charitable organization.
- 9.6 Licensed vendors who wish to operate at a Council sanctioned community event at a location outside the Central Business District must obtain the express written permission of the event organizers, and provide a copy of such letter of permission to the Licensing Officer at least one (1) week in advance of the event.
- 9.7 No person shall operate a refreshment vehicle or refreshment stand within 8 metres (26 feet) of the vehicular entrance to the property or in any location which will obstruct the flow of vehicles.
- 9.8 No person shall operate a refreshment vehicle or refreshment stand within 90 metres (295 feet) of any other refreshment vehicle, refreshment stand or restaurant, with the exception of the three (3) locations listed in Section 9.11 and as otherwise exempt
- 9.8.1 Notwithstanding Sections 9.8 and 9.11, the location of special fund raising events shall be at the discretion of the Licensing Officer.
- 9.9 Every person applying for a licence to permit the operation of a refreshment vehicle or refreshment stand who intends to operate from private property shall submit with the application a letter of permission with respect to the proposed use from the registered property owner or his authorized agent.
- 9.10 Notwithstanding anything in Section 9, the owner of a mobile lunch truck, which has the sole purpose of travelling from place to place to serve a number of private locations is permitted to serve his clients in any zone and shall not be required to provide letters of permission from the property owners.

9.11 In the Central Business District one food cart is permitted to operate from the sidewalk at each of the following locations:

- Northwest corner of First Street and Broadway
- South side of Broadway, between 114 and 136 Broadway
- Northwest corner of Second Street and Broadway

9.12 The number of licences permitted to be held by a single individual for locations in the Central Business District shall be limited to one (1).

10 INSURANCE

10.1 No person shall operate a refreshment vehicle or refreshment stand unless he takes out and keeps in force during such operation a comprehensive policy of public liability and property damage insurance acceptable to the Licensing Officer.

10.1.1 The policy shall, at a minimum, provide insurance coverage in respect of any one accident to the limit of two million dollars (\$2,000,000) exclusive of interest and costs, against loss or damage resulting from bodily injury to, or death of one (1) or more persons and loss of, or damage to, property.

10.1.2 Such policy or policies shall be in the name of the owner and shall name The Corporation of the Town of Orangeville as an additional insured thereunder, and shall state that The Corporation of the Town of Orangeville shall be indemnified by the owner of the licence so that if a law suit is filed against the Town, notwithstanding that the operator or owner of the licence had general liability insurance, the operator or owner of the licence or vehicle will be required to pay to the Town any and all costs it incurred, or losses suffered by the Town, as a result of any legal proceeding. All policy or policies shall also contain a cross-liability of interest clause protecting the Town against any actions, causes of actions, claims and demands whatsoever which may arise resulting from the Town's issuance of the permit to use the designated area.

10.2 The proof of insurance shall include a provision that the licensing officer will be given at least ten days notice in writing of any cancellation, expiration or variation in the policy.

10.2.1 No person shall fail to have the proof of insurance with him while operating a refreshment vehicle or refreshment stand.

11 AVAILABILITY OF LICENCE/LICENCE STICKER

11.1 When operating a refreshment vehicle or a refreshment stand, the operator shall ensure that the licence issued pursuant to this by-law is available for inspection at all times.

11.2 The licence sticker issued in respect of a licence for a refreshment vehicle shall be securely affixed to the vehicle in a visible location.

12 GENERAL CONDITIONS

- 12.1 Every person licensed under this by-law shall comply with all municipal, provincial and federal laws.
- 12.2 Every licensee shall ensure that where a vehicle is powered by propane, or where propane is utilized for food preparations, a minimum five (5) pound ABC dry chemical fire extinguisher or other such extinguisher as required by the Fire Chief or his designate, is attached to the vehicle at all times and the operator of such vehicle shall be knowledgeable in the proper use of such fire extinguisher. In all cases, where a licensee requires any food heating capability, he shall be adequately equipped with a fire extinguisher in accordance with the provisions of the Fire Code, O. Reg. 388/97.
- 12.3 No person shall fail to keep his refreshment vehicle or refreshment stand in a clean and sanitary condition.
- 12.4 No person shall offer for sale or sell from a refreshment vehicle or refreshment stand, any goods, wares, merchandise or other item other than refreshments, food stuffs and confections.
- 12.5 No person operating a refreshment vehicle or refreshment stand shall be under the influence, or consume, or have in his possession, any alcohol or drugs other than any drugs prescribed by a duly qualified medical practitioner which do not and may not impair his ability to operate the vehicle/stand while in charge of the same.
- 12.6 No person shall sell any food from a refreshment vehicle or refreshment stand unless the food is wrapped and sold in individual, single-serving packages or disposable containers, and serviettes are provided for customers.
- 12.7 No person shall operate a refreshment vehicle or refreshment stand between the hours of 12:00 midnight and 6:00 a.m. on any day, except as described in Section 13.3.
- 12.8 No licensee shall permit any individual other than a bona fide employee to operate the refreshment vehicle or refreshment stand.
- 12.9 No person shall operate a mobile lunch truck, chip truck or an ice cream truck unless it has been equipped with an audible reversing alarm to alert the public when the vehicle is backing up.
- 12.10 No refreshment vehicle or refreshment stand shall be equipped with any flashing lights or sounding device for attracting attention except as described in Section 12.9 herein.
- 12.11 No person shall operate a refreshment vehicle or refreshment stand at the Market on Broadway without the approval of the Market Manager.

- 12.12 Any person operating a refreshment vehicle or refreshment stand shall:
 - 12.12.1 Provide a waste receptacle of an adequate size to contain all waste generated from the operation of the refreshment vehicle or refreshment stand.
 - 12.12.2 Ensure that all waste in the vicinity of the refreshment vehicle or refreshment stand is placed in such container before leaving the area.
 - 12.12.3 Remove such receptacle and its contents before leaving the area.
 - 12.12.4 Ensure that no waste generated by the operator or contained in his waste receptacle is deposited in any Town-owned waste containers; and
 - 12.12.5 Maintain the designated area and the pavement, sidewalk and boulevard adjacent thereto in a clean and sanitary condition free from grease, papers, rubbish and debris.
- 12.13 No person shall operate a refreshment vehicle or refreshment stand unless he is in compliance with the *Health Protection and Promotion Act*, R.S.O. 1990, c H.7, and its regulations as amended.
- 12.14 In all cases, the licensee shall indemnify and save the Town harmless from any actions, claim, damage, or loss whatsoever arising from the use of the designated area or anything undertaken or neglected to be undertaken in connections with the use of the permit.
- 12.15 Where any person vends without holding a permit issued under this by-law, the Licensing Officer or any other Officer is authorized and empowered to seize the refreshment vehicle or refreshment stand and remove it and, if applicable, place the refreshment vehicle or refreshment stand and its contents in storage.
- 12.16 The costs of the removal and storage of a refreshment vehicle or refreshment stand and its contents shall be paid by the owner of it.
- 12.17 All costs of the removal, care and storage of the refreshment vehicle or refreshment stand and contents are a lien upon it which may be enforced in a manner provided by the *Repair and Storage Liens Act*, R.S.O. 1990, c. R.25, as amended.
- 12.18 A refreshment vehicle or refreshment stand removed and stored in accordance with this section and not claimed by the owner within sixty days is the property of the Town and may be sold and the proceeds shall form part of the general funds of the Town.
- 12.19 Any perishable contents of the refreshment vehicle or refreshment stand upon being removed in accordance with this section, are the property of the Town and may, subject to the provisions of s. 132 of the *Police Services Act*, R.S.O. 1990, c. P.15 be destroyed or given to a charitable institution.

13 PROVISIONS APPLICABLE TO ICE CREAM TRUCKS AND ICE CREAM BICYCLES

13.1 Despite Section 12.4, no person shall operate an ice cream truck or an ice cream bicycle from which is sold:

- heated or cooked food
- milk or any beverages
- any goods, wares or merchandise or other item other than ice cream, and frozen refreshments.

13.2 Despite Section 9.4, ice cream bicycles may be permitted to operate in municipal parks.

13.3 Despite Section 12.7 no person shall operate or permit the operation of an ice cream truck or bicycle between the hours of 11:00 p.m. and 7 a.m. on any day.

14 PROVISIONS APPLICABLE TO REFRESHMENT STANDS

14.1 A refreshment stand may be permitted to operate in a park where a municipally-owned refreshment facility is located, only during the hours when said refreshment facility is not in operation, in accordance with the provisions of this by-law and subject to the following:

14.1.1 The operator of the refreshment stand must submit a drawing indicating the proposed location of the refreshment stand and a schedule of operating hours to the Director of Parks and Recreation, who shall determine the suitability of the proposed location of the refreshment stand and the hours of operation.

14.2 The Parks and Recreation Department may enter into an agreement for the use of any municipal owned refreshment facility as a refreshment stand when the said facility is not in use by the Town.

15 INSPECTION

15.1 Any person to whom a licence has been issued pursuant to this by-law shall permit any Officer, at any reasonable time, to inspect the refreshment vehicle or refreshment stand for which the licence was issued as well as the equipment and other personal property used or kept for hire in connection with the carrying on of the licensed business.

15.2 Any person who is licensed as required by this by-law shall, upon the request of any Officer, the Clerk, any person authorized by Council or any other person to whom they are offering goods for sale, produce their licence for inspection and provide, in writing, their name and address and also the name and address of their employer if applicable.

16 REFUSAL, REVOCATION, SUSPENSION

- 16.1 Any contravention of any by-law or any other law may be grounds for the refusal, suspension or revocation of the licence.
- 16.2 If the Licensing Officer deems that the continuation of a business poses an immediate danger to the health or safety of any person or to any property, the Licensing Officer may, for the time and on such conditions as considered appropriate, without a hearing, suspend a licence subject to providing the licensee with the reasons for the suspension, either orally or in writing, and providing an opportunity to respond to them
- 16.3 Upon suspension or revocation of a licence issued under this by-law, the licensee shall return to the Licensing Officer all licences issued by the Town, and an Officer shall have access to any premises, vehicles or other property of the licensee for the purpose of receiving or taking the licence, and no person shall refuse to deliver the licence to the Licensing Officer or shall in any way prevent or hinder the Licensing Officer from receiving or taking same.

17 NOTICE AND APPEAL

- 17.1 Any person who has his licence refused, suspended or revoked shall be entitled to request a hearing of the matter by Council, provided that such a request is delivered to the Clerk's Department in the Town of Orangeville within seven (7) days of the notification by the Licensing Officer of the refusal, suspension or revocation of a licence. If a written request for a hearing is not received by the Clerk's Department within this time frame the licence shall stand refused, suspended or revoked.
- 17.2 Upon receipt of a request for a hearing, Council shall conduct a hearing and either confirm the refusal, suspension or revocation of a licence, or direct the issuance or reinstatement of a licence upon such terms and conditions as Council shall deem advisable. The decision of Council in this regard shall be final.
- 17.3 When a hearing date has been fixed and the applicant or licensee has been given notice and does not attend at the place and at the time appointed for the hearing, the licence is deemed to be refused, suspended or revoked as of the date of the hearing, and no further notice shall be given to the applicant or licensee. The decision of Council in this regard shall be final.
- 17.4 Any notice or order required to be given by the Licensing Officer to an applicant or a licensee shall be sufficiently served if delivered personally or by telephone transmission of a facsimile or sent by registered or certified mail, addressed to the person to whom service is required to be made, according to the application for the licence or licence records.

- 17.5 Any notice required to be given by an applicant for a licence, or by a licensee to the Town, shall be sufficiently served if delivered personally to the Licensing Officer or by telephone transmission of a facsimile or sent by registered or certified mail, addressed to the Town of Orangeville, Municipal Offices, 87 Broadway, Orangeville, Ontario L9W 1K1, facsimile number 519-941-9033.
- 17.6 When service is made through registered or certified mail, the service shall be deemed to have been made on the seventh day after the day of mailing.
- 17.7 When service is made by telephone transmission of a facsimile between 4:30 p.m. and midnight, it shall be deemed to have been made on the following day.
- 17.8 When service is made by personal delivery, it shall be deemed to have been received on the day that it was delivered.

18 OFFENCE AND PENALTY

- 18.1 Every person who contravenes any provisions of this by-law or any director or officer of a corporation who concurs in such contravention by a corporation is guilty of an offence and, upon conviction, shall be liable to a fine as provided under the *Provincial Offences Act*, R.S.O. 1990, as amended from time to time.

19 WORD USAGE

- 19.1 As used in this by-law, words used in the present tense include the future; words used in the masculine gender include the feminine and neuter; and the singular number includes the plural and the plural the singular.
- 19.2 The headings and subheadings used in this by-law shall not form part of the by-law, but shall be deemed to be inserted for convenience of reference only.

20 SCHEDULES

- 20.1 The schedules referred to in this by-law shall form part of this by-law. Each entry in a column of a schedule shall be read in conjunction with the entries across from that entry and not otherwise.

21 SEVERABILITY

- 21.1 Should any section or subsection of this by-law or any part or parts thereof be found by law to be illegal or beyond the power of the Council to enact, such section or subsection or part or parts thereof shall be deemed to be severable so that the remainder of this by-law is separate and therefore enacted as such.

22 CONFLICT WITH ANY OTHER BY-LAW

22.1 In the event of any conflict between any provisions of this by-law and any other by-law heretofore passed, the provisions of this by-law shall prevail.

23 REPEALING SECTION

23.1 By-law 116-2004 of the Town of Orangeville is hereby repealed.

24 EFFECTIVE DATE

24.1 This by-law shall come into force and take effect on January 1, 2009.

PASSED IN OPEN COUNCIL THIS 3RD DAY OF NOVEMBER, 2008.



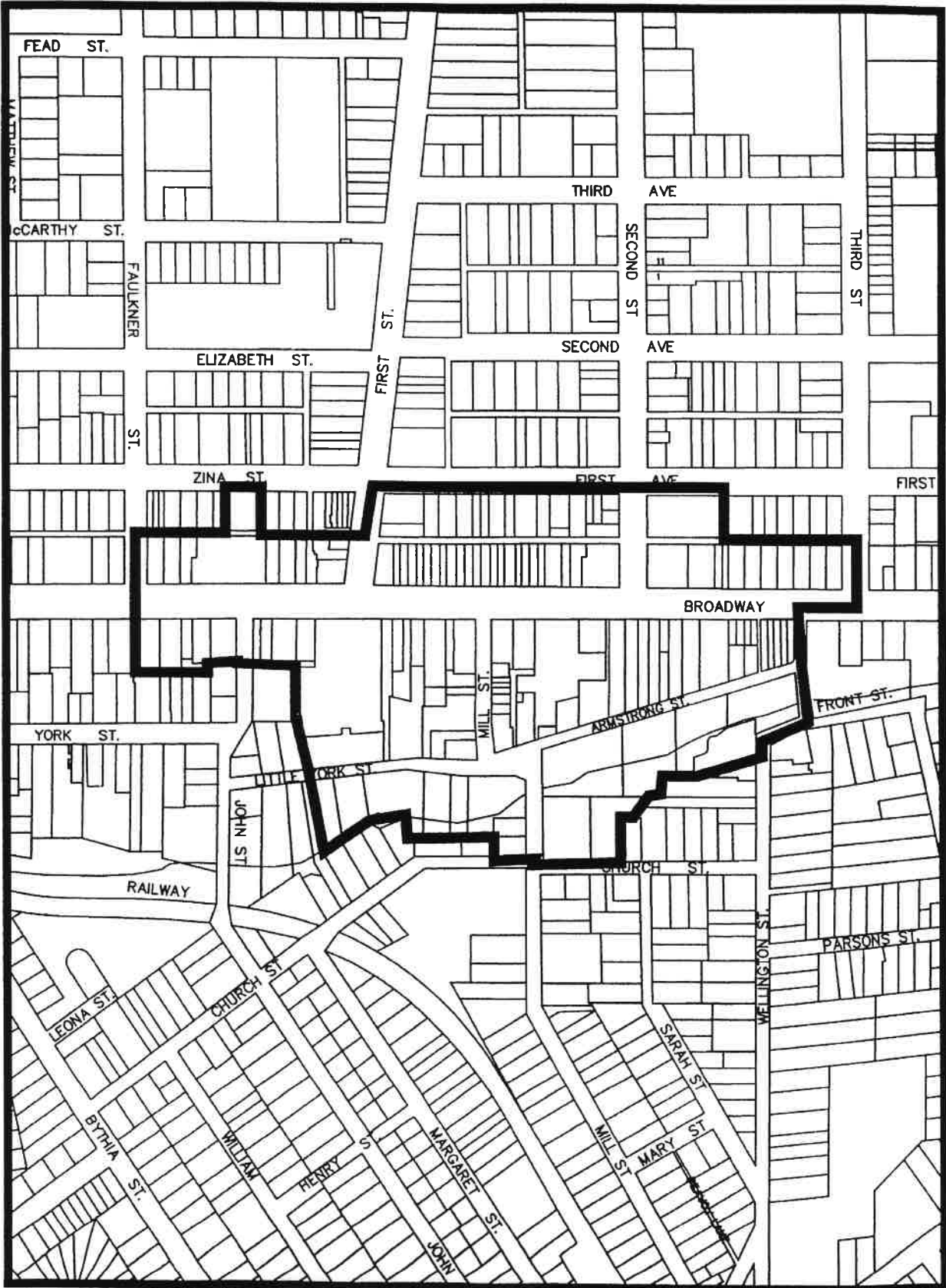
Rob Adams, Mayor



Cheryl Johns, Clerk

SCHEDULE "A"

CENTRAL BUSINESS DISTRICT



SCHEDULE "B"

ANNUAL LICENCE FEES

<u>Column 1</u>	<u>Column 2</u>
Type of Mobile Food Vending	Fee per Cart/Vehicle
Chip truck	\$500.00
Food cart	\$500.00
Ice cream bicycle	\$100.00
Ice cream truck	\$500.00
Mobile lunch truck	\$500.00
Refreshment stand	\$500.00
Food vendor selling at a special event only	\$120.00 per event
Administration Fee (special fund raising events only)	\$25.00