

Authority: Item 12, Emergency &
Community Services
Report 08-004 (ECS08013)
CM: March 26, 2008

Bill No. 051

CITY OF HAMILTON

BY-LAW NO. 08-051

To Amend Market By-law No. 92-310

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

AND WHEREAS the Council of The Corporation of the City of Hamilton passed By-law No. 92-310 on the 8th day of December 1992 to regulate the Hamilton Farmers' Market;

AND WHEREAS the *City of Hamilton Act, 1999*, S.O. 1999, c. 14, Schedule C, did incorporate as of January 1, 2001, the municipality "City of Hamilton";

AND WHEREAS the City of Hamilton is the successor to certain area municipalities, including the former area municipality known as "The Corporation of the City of Hamilton" and is the successor to the former regional municipality, namely "The Regional Municipality of Hamilton-Wentworth";

AND WHEREAS the *City of Hamilton Act, 1999* provides that every by-law of a former municipality that was in force on December 31, 2000 becomes a by-law of the City of Hamilton on January 1, 2001 and remains in force, in respect of the part of the municipal area to which it applied on December 31, 2000, until it expires or is repealed or amended to provide otherwise;

AND WHEREAS the Council of the City of Hamilton in adopting Item 12 of Report 08-004 of the Emergency & Community Committee at its meeting held on the 19th day of March, 2008, recommended that the Market By-law No. 92-310 be amended as hereinafter provided;

NOW THEREFORE the Council of the City of Hamilton hereby enacts as follows:

1. Section 14 of By-law No. 92-310, as amended, is amended by adding a new paragraph after Paragraph 14.20. as follows:

"21. Comply with every term and condition of his contract."
2. Section 15 of By-law No. 92-310, as amended, is amended by adding a new paragraph after Paragraph 15.19. as follows:

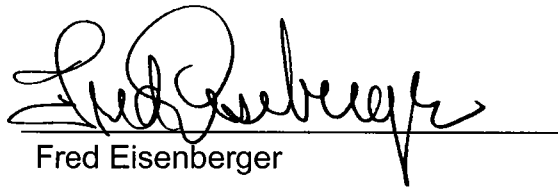
"20. Comply with the Zero Tolerance Policy for Violence in the Hamilton Farmers' Market, as set out in Schedule "D" annexed hereto."

3. Section 18 of By-law No. 92-310, as amended, is amended by adding a new subsection after Subsection 18(1) as follows:

"(1A) Without limiting Subsection 18(1), where a stallholder fails to comply with any provision of this by-law, the Market Supervisor may (i) suspend the contract for a specified period of time not to exceed three (3) market days for each incident of non-compliance, and/or (ii) undertake to do anything that will remedy the non-compliance and charge the stallholder for all reasonable costs and expenses for the work."

4. Schedule "A" annexed hereto forms part of this by-law, and part of By-law No. 92-310, as amended, as Schedule "D".
5. In all other respects, By-law No. 92-310, as amended, is hereby confirmed, and unchanged.
6. This by-law comes into force on the date that it is passed.

PASSED AND ENACTED this 26th day of March, 2008.



Fred Eisenberger
Mayor



Kevin C. Christenson
City Clerk

SCHEDULE "A"

To By-law No. 08-051

and

SCHEDULE "D"

To By-Law No. 92 – 310

**Zero Tolerance Policy for Violence
in the Hamilton Farmers' Market**

Policy Statement

All users, stallholders and staff of the Hamilton Farmers' Market have the right to be safe and to feel safe while in the Hamilton Farmers' Market. With this right comes the responsibility to be accountable for actions that put the safety of others at risk.

The purpose of this policy is to ensure that deterrents are in place so that incidents of violence do not occur in the Hamilton Farmers' Market. The focus of this policy is on the behaviour of users and stallholders of the Hamilton Farmers' Market.

The City of Hamilton will not tolerate violence in the Hamilton Farmers' Market and will take appropriate action where necessary to deal with these incidents.

Goal of Policy

To reduce or eliminate violence from the Hamilton Farmers' Market.

Definition of Violence

For the purpose of this policy, violence includes, but is not limited to, the following behaviours:

Category 1:

- verbal abuse towards another individual, which is thought to be aggressive, intimidating, or having the objective of inciting violence
- shouting at another individual
- uttering threats of violence towards another individual
- refusal to exit the Hamilton Farmers' Market when asked by staff
- any activity aimed at intimidating which can be seen as promoting or increasing potential situations

Category 2:

- physical vandalism to building and equipment

- physical striking, throwing of articles in a deliberate or aggressive manner, or any other physical violence towards another individual

Consequences

Category 1 Behaviours: Individuals who engage in any of the behaviours listed in Category 1 will be subject to immediate ejection from the Hamilton Farmers' Market and

First Violation: will be suspended from the Hamilton Farmers' Market for a period of time not to exceed three (3) market days, at the discretion of the Market Supervisor or his or her designate;

Second Violation: will be suspended from the Hamilton Farmers' Market for a period of time not to exceed six (6) market days, at the discretion of the Market Supervisor or his or her designate;

Third Violation: will be suspended from the Hamilton Farmers' Market indefinitely, with the final determination being at the discretion of the Market Supervisor or his or her designate.

Category 2 Behaviours: Individuals who engage in any of the behaviours listed in Category 2 will be subject to immediate ejection from the Hamilton Farmers' Market and

First Violation: will be suspended from the Hamilton Farmers' Market for a period of time not less than thirty (30) market days. Thirty (30) market days is a minimum period only and may be extended by the Market Supervisor or his or her designate;

Second Violation: will be suspended from the Hamilton Farmers' Market for a period of time not less than sixty (60) market days. Sixty (60) market days is a minimum period only and may be extended by the Market Supervisor or his or her designate;

Third Violation: will be suspended from the Hamilton Farmers' Market indefinitely, with the final determination being at the discretion of the Market Supervisor or his or her designate.

In addition to the foregoing consequences for Category 1 and Category 2 behaviours, incidents may be reported to the City of Hamilton Police Service. Criminal charges may follow.

There will be no reconsideration by the City with respect to the length of a suspension. Where new information is available, a suspended individual may request reconsideration of the facts on which the suspension is based. Such request must be

addressed to the Director of Culture, who will consider the new information and make his or her decision. ALL SUCH DECISIONS OF THE DIRECTOR ARE FINAL. Those individuals desiring reconsideration must include with their request payment of a non-refundable (unsuccessful) administration fee in the amount of \$250.00. In the event that the applicant is successful, the City will refund the administration fee.

Individuals who engage in vandalism will be subject to the consequences outlined above and will also be required to reimburse the City for the cost of repair, together with an additional administration charge of 100% of such cost.

Nothing in this policy will derogate or limit the rights of the City or its staff pursuant to Market By-law No. 92-310, as amended, or any other rights they have in contract or in law.