

**THE CORPORATION OF THE CITY OF PETERBOROUGH**

**BY-LAW NUMBER 03-095**

**BEING A BY-LAW TO AUTHORIZE THE EXECUTION OF AN AGREEMENT BETWEEN THE CORPORATION OF THE CITY OF PETERBOROUGH AND SHARON FRANCOEUR TO PROVIDE FOOD SERVICES AT THE WEST 49 SKATEBOARD PARK.**

**THE CORPORATION OF THE CITY OF PETERBOROUGH by the Council thereof hereby enacts as follows:**

1. That the Mayor and the Clerk be and they are hereby authorized to execute an Agreement between The Corporation of the City of Peterborough and Sharon Francoeur to provide food services at the West 49 Skateboard Park, in the form attached hereto as Schedule "A", and to affix the seal of the Corporation thereto.

By-law read a first and second time this 2<sup>nd</sup> day of June, 2003

By-law read a third time and finally passed this 2<sup>nd</sup> day of June, 2003

(Sgd.) Sylvia Sutherland, Mayor

(Sgd.) Nancy Wright-Laking, City Clerk

A G R E E M E N T made this 1<sup>st</sup> day of May, 2003.

B E T W E E N :

**THE CORPORATION OF THE CITY OF PETERBOROUGH**

hereinafter called the "City"

OF THE FIRST PART

- and -

**SHARON FRANCOEUR**

hereinafter called the "Operator"

OF THE SECOND PART

WHEREAS the City wishes to grant to the Operator the right to operate a food service cart/truck (hereinafter called the "Food Service") at West 49 Skateboard Park, within Bonnerworth Park (hereinafter called the "Park"), in the City of Peterborough, upon the terms and conditions hereinafter contained;

NOW THEREFORE THE PARTIES HERETO AGREE AS FOLLOWS:

**1.00 GRANT OF RIGHTS**

1.01 The City hereby grants to the Operator the exclusive right to operate the Food Service within Bonnerworth Park, for a period of twenty-five (25) weeks from May 12, 2003 to November 2, 2003, in accordance with this agreement.

1.02 When not in default hereunder, the Operator shall have the right to renew this agreement for a period of twenty-five (25) weeks during the months of May to November, 2004, upon the same terms and conditions as are herein contained, save and except the compensation payable to the City, pursuant to paragraph 2 hereof, which shall be renegotiated.

1.03 In the event that the Operator wishes to exercise this renewal right, written notice shall be provided to the City on or before December 31, 2003. In the event that such notice is not given, this agreement shall be null and void and of no further effect.

**2.00 COMPENSATION AND SECURITY**

2.01 The Operator shall pay compensation to the City, in the amount of One Thousand Two Hundred and Fifty Dollars (\$1,250.00), which compensation shall be paid in monthly installments, in advance, in the amount of Two Hundred and Eight and 33/100 Dollars (\$208.33) each, on the 12<sup>th</sup> day of each and every month from and including the 12<sup>th</sup> day of May, 2003 to and including the 12<sup>th</sup> day of October, 2003.

### **3.00 GENERAL CONDITIONS**

3.01 All Food Service equipment and supplies are the sole responsibility of the Operator.

3.02 The Operator shall operate the Food Service in a safe, responsible and courteous manner.

The Operator also warrants that any person employed by the Operator in the operation of the Food Service shall be of clean appearance, good deportment, satisfactory physical capacity, and able to deal courteously with the public. No person who has been found unsuitable, in the opinion and at the sole discretion of the Recreationist designated by the City and/or his designate, shall be employed by the Operator in connection with this agreement.

3.03 The Operator shall:

(a) provide regular clean-up of garbage and refuse from the area immediately surrounding the Food Service area and the perimeter of the Park prior to opening and at the conclusion of each day of operation;

(b) place litter and garbage in designated locations to be collected and disposed of by the City;

(c) conform with such recycling operating procedures as the Public Works Division may direct; and

(d) promptly notify the City of any vandalism at the Park.

3.04 Notwithstanding paragraph 3.02 and 3.03, the City shall perform the following work, at no expense to the Operator:

(a) Any necessary grounds keeping;

(b) Any major capital repairs; and

(c) Collection and disposal of garbage and recyclable materials from designated areas within the Park.

3.05 The City shall provide the Operator with garbage bags at no cost to the Operator.

3.06 The Operator shall not be permitted to sell alcohol within the Park under any circumstances.

3.07 The Operator agrees that, at her expense, all employees of the Operator shall be covered pursuant to the provisions of the *Workplace Safety and Insurance Act* of the Province of Ontario. The Operator shall maintain her registration with the Workplace Safety & Insurance Board in good standing, and shall provide to the City certificates of such registration continuously throughout the term of this agreement.

3.08 The Operator shall obtain any licences or approvals from the City or other regulatory agencies, which may be required for the carrying on of the Operator's business within Bonnerworth Park.

3.09 The Operator acknowledges that the City may permit scheduled special events to be held at the Park. The Recreationist, as designated from time to time by the City, will advise the Operator of any scheduled special event. The Operator may negotiate for the provision of Food Service to any user of the Park during any scheduled special event.

**4.00 CANCELLATION AND TERMINATION**

4.01 The City may terminate this agreement forthwith upon written notice to the Operator:

- (a) In the event of any breach or default of any of the covenants and agreements herein contained or any failure on the part of the Operator to perform in a manner satisfactory to the City, (including non-payment of compensation);
- (b) In the event of damage to the facilities by fire, lightning or tempest which makes repair of the facilities within thirty (30) days impossible; or
- (c) In the event of the bankruptcy or insolvency of the Operator.

**5.00 INDEMNITY**

5.01 The Operator shall indemnify and save harmless the City from all actions, suits, claims, demands, liabilities, expenses or costs whatsoever arising by reason of the injury or death of any person, or damage to any property, resulting from the operations of the Operator pursuant to this agreement.

**6.00 INSURANCE**

6.01 The Operator shall, at her own expense, obtain and maintain public liability and property damage insurance in the minimum amount of Two Million Dollars (\$2,000,000.00). Such insurance policy shall name the City as an additional insured, and shall contain a cross liability endorsement. The Operator shall provide a certificate of insurance, confirming the above-mentioned coverage.

**7.00 ASSIGNMENT AND SUBLETTING**

7.01 The Operator shall not assign or sublet any part of this agreement without the prior written consent of the City, which consent may be withheld in the discretion of the City.

SIGNED, SEALED AND DELIVERED )  
in the presence of:

**THE CORPORATION OF THE  
CITY OF PETERBOROUGH**

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Sylvia Sutherland, Mayor

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Nancy Wright-Laking, Clerk

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Sharon Francoeur