

TOWN OF MARKHAM
ONTARIO



BY-LAW 2002-305

**A BY-LAW TO PROVIDE FOR THE LICENSING
AND REGULATION OF
REFRESHMENT VEHICLES**

This By-law is printed under and
by authority of the Council of
the Town of Markham

(Consolidated for convenience only
to March 22, 2011)

Amended By:

By-law 2006-318 – November 28, 2006

By-law 2007-282 – December 11, 2007

By-law 2011-75 – March 22, 2011

BY-LAW 2002-305

To Provide For The Licensing and Regulation of Refreshment Vehicles

WHEREAS THE *Municipal Act, 2001* provides that the Council may by by-law license and regulate Refreshment Vehicles and for revoking such license;

AND WHEREAS the Town of Markham deems it advisable for health and safety and potential public nuisance to enact a by-law to license and regulate refreshment vehicles.

THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWN OF MARKHAM ENACTS AS FOLLOWS:

1. In this by-law,
 - (a) "Refreshment vehicle" means a vehicle which is used or is intended to be used for the sale of refreshments and includes a refreshment cart or device.
(Amended by By-law 2011-75)
 - (b) "licensing officer" means the person or persons authorized by the council to act on their behalf in all matters relating to this by-law.
 - (c) "operator" means:
 - (i) a person who is the owner of a refreshment vehicle or a refreshment cart, including a person who is the registered owner of a refreshment vehicle according to the records maintained by the Registrar of vehicles for the Province of Ontario; and
 - (ii) a person who has the care and control of a refreshment vehicle or refreshment cart under a lease or other rental agreement; provided, where a person has the exclusive care and control of a refreshment vehicle or refreshment cart under a lease or other rental agreement; "operator" shall not include a person who is the owner of the refreshment vehicle or a person who is the registered owner of the refreshment vehicle according to the records maintained by the Registrar of vehicles for the Province of Ontario.
(Amended by By-law 2011-75)
 - (d) "refreshment" means food and drink and includes sandwiches, cakes, doughnuts, hot dogs, ice cream, pies that have been prepared and packaged on the vehicle or at a location other than on the vehicle.
(Amended by By-law 2011-75)

2. No person shall conduct the business of the sale of refreshments from a vehicle or carry on such trade or calling in the Town of Markham for which a license is required under Section 4 hereof unless he holds a license issued therefor by the licensing officer.
3. Every application for a license shall be accompanied by:
 - (a) a statement on the form provided by the municipality giving particulars as to the location of the premises together with such other information as may be required to determine the compliance of the use with all applicable by-laws and regulations;
 - (b) the appropriate fee as specified in the Town of Markham Licensing Fees and Charges By-law.

(Amended by By-law 2011-75)
4. A separate license shall be obtained for each vehicle and the issue of such license shall be subject to the following:
 - (a) To enforce the provisions of this by-law the Licensing Officer or other person so authorized may investigate any trade or calling;
 - (b) Prior to the issue of such license, a certificate from the Medical Officer of Health may be required certifying that the premises to be licensed are in a proper sanitary condition and that adequate sanitary facilities are provided for the use of patrons thereto;
 - (c) Each license, when issued, shall be posted in a conspicuous place on the vehicle so licensed;
 - (cc) The holder of a licence issued under this by-law shall not carry on business in the Town of Markham unless there is attached to and exposed on the back of the vehicle described in the licence application, a number plate, furnished by the Municipality, showing in plain figures, the number of a permit issued and in force for the vehicle;
 - (ccc) When a licence has been issued, a validation device, issued by the Municipality, shall be affixed forthwith, in the space provided for such purpose in the upper right corner of the number plate referred to in subsection (cc);
 - (d) The license granted for any refreshment vehicle may be revoked whose owner or licensee does not comply with the foregoing or where such license has been issued through error or contrary to the provisions of any by-law or regulation;
 - (e) licenses issued under the provisions of this by-law, unless otherwise expressed to be granted for a shorter period, shall expire on the 31st day of December in the year in which they are issued;

- (f) The vehicle from which the refreshments are sold shall be of a four-wheeled commercial motor vehicle type;
- (ff) Every owner of a refreshment vehicle shall ensure that the vehicle is equipped with an auditory back-up warning device in good working order;
(Amended by By-law No. 2006-318)
- (g) The body, doors and windows of such vehicle shall be of sufficiently sound construction to provide reasonable protection against dust, dirt, flies and other injurious matter or things;
- (h) The interior of the vehicle shall be of a light colour and shall be repainted or refinished as often as required by the Licensing Officer or any person designated by it;
- (i) The floor of such vehicle shall be of a suitable impervious material, free of holes, cracks or crevices, and the surface thereof shall be readily washable and shall be kept clean and in good condition;
- (j) The storage shelves therein shall be painted or covered with suitable impervious materials;
- (k) The vehicle shall have painted in contrasting colour on both side panels in letters and figures at least 4 inches high, the name and business address of the owner thereof;
- (l) All condiments, milk, cream and sugar shall be dispensed from containers approved by the Licensing Officer;
- (m) Only single-service disposable cups, plates, containers, forks, spoons and serviettes provided in dispensers approved by the Licensing Officer or individually wrapped shall be used in the sale of all refreshments;
- (n) The vehicle shall be equipped with either;
 - (i) a metal refuse container with a self-closing lid which shall be kept at all times in a clean and sanitary condition and emptied at least once daily; or
 - (ii) a disposable litter container which shall be replaced daily;and such containers shall be used for the disposal of all refuse;
- (o) Every person selling or handling refreshments shall wear clean clothes, be clean and neat in appearance, have clean hands and be the holder of a current food handler's permit from the Medical Officer of Health of each area municipality in which the vehicle is to be operated and shall keep with him and produce for inspection by the Licensing Officer or any of its staff such food handler's permit at all times;

- (p) The vehicle and all parts and equipment thereof for use in the dispensing of refreshments shall at all times be kept in a clean and sanitary condition and in good repair;
- (q) All milk sold from the vehicle shall be kept in dry storage at a temperature no higher than 40 degrees Fahrenheit and shall be sold only in individual, disposable containers;
- (r) All sandwiches, cakes, doughnuts, hot dogs, hamburgers, pies and other similar foods shall be wrapped and sold in individual servings;
- (s) The date of preparation shall be clearly and legibly marked as such on or affixed to the wrapper of all sandwiches sold from the vehicle;
- (t) No prepared foods other than those kept in unopened cans shall be sold more than twenty-four hours after their preparation;
- (u) Adequate refrigeration at a temperature no higher than 40 degrees Fahrenheit shall be provided for perishable foodstuffs which shall be kept so refrigerated;
- (v) The vehicle shall be equipped so as to maintain hot, prepared foods at a temperature of not less than 150 degrees Fahrenheit, and such foods shall be kept so heated;
- (w) All refreshments sold from the vehicle shall be clean, fresh and wholesome;
- (x) No operator of a refreshment vehicle, licensed under this by-law, shall park on any lot, highway, or other location, while carrying on the business for which it is licensed, for a period of time exceeding two hours, during any 24 hour period;
- (y) No operator of a refreshment vehicle, licensed under this by-law, shall park or stop such vehicle, for the purpose of carrying on the business for which it is licensed, at a distance less than fifty (50) feet from any intersection, or less than one hundred (100) feet from the entrance to any park, or less than fifteen hundred (1,500) feet from any school ground;
- (z) No operator of a refreshment vehicle, licensed under this by-law shall park or stop such vehicle, for the purpose of carrying on the business for which it is licensed, on any road within a Residential Plan of Subdivision, unless such subdivision is still in the process of development and houses thereon are still in the process of construction;
- (zz) Every owner of a vehicle or cart operating by propane shall file annually with the Town of Markham, during the license renewal, an inspection certificate signed by a propane fitter, 1st class (PF-1) or 2nd class (PF-2) confirming that the inspection has been done by a qualified fitter with an A or B licence in accordance with the Ontario Code, under the direction of the Ministry of Consumer and Commercial

Relations. And further, all companies performing this task shall be a registered contractor under the *Energy Act*.

5. No license issued under the provisions of this by-law shall be transferred.
6. No license shall be issued contrary to the provisions of any applicable zoning by-law.
7. Where any licensee is convicted of an offence under this by-law the license shall be suspended forthwith and shall not be reinstated until the licensing officer certifies in writing that the condition resulting in the charge and conviction have been remedied and that the premises and its proposed operation comply with this by-law.
8. Every person who contravenes any provision of this By-law is guilty of an offence and on conviction is liable to a fine as provided for under the *Provincial Offences Act*, R.S.O. 1990, c.P-33, as amended.

(Amended by By-law 2011-75)

9. By-law No. 2001-26, "A By-law to provide for the Licensing and Regulation of Refreshment Vehicles " shall be repealed effective January 1, 2003.

READ A FIRST, SECOND AND THIRD TIME AND PASSED THIS 10TH
DAY OF DECEMBER, 2002.

"Sheila Birrell"

TOWN CLERK

"Don Cousens"

MAYOR