

TOWN OF MARKHAM
Ontario



BY-LAW 2002-299

**A BY-LAW TO REGULATE
HORSE RIDING ESTABLISHMENTS
IN THE TOWN OF MARKHAM
AND PROVIDE FOR SAFETY MEASURES FOR
PERSONS WHILE RIDING AT THOSE ESTABLISHMENTS.**

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

(Consolidated for convenience only
to December 14, 2007)

Amended by:
By-law 2007-282 – December 11, 2007



2002-299

A by-law to regulate horse riding establishments
in the Town of Markham and provide for safety measures
for persons while riding at those establishments.

WHEREAS the *Municipal Act, 2001* authorizes a local municipality to pass such by-laws and make such regulations for the health and safety, morality and welfare of the inhabitants of the municipality in matters not specifically provided for by that Act and for governing the conduct of its members as may be deemed expedient and are not contrary to law.

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

1. DEFINITIONS

In this By-law,

“assistant instructor” means a person who has attained the age of sixteen (16) years and has at least three (3) consecutive year’s experience with horses in the immediately preceding five (5) years and who is supervised by an instructor.

“assistant trail guide” means a person who has attained the age of sixteen (16) years and has at least three (3) consecutive year’s experience riding and working with horses at a trail riding establishment, in the immediately preceding five (5) years.

“Council” means the Council of the Corporation of the Town of Markham.

“drug” means a substance as listed in Schedules I, II, III, IV, or V to the Controlled Drugs and Substances Act S.C. 1996, c.19, as may be amended from time to time.

“horse riding establishment” means the carrying on of business in the equine industry and is further divided into the following disciplines:

“trail riding establishment” means the carrying on of a business where horses are let out for hire for recreational riding for payment, either at a permanent or temporary location.

“Instructional riding establishment” means the carrying on of a business where horses are let out for hire for providing instruction for payment, either at a permanent or temporary location or where instruction is provided in horse riding where the horse is boarded or part boarded by such establishment.

“head trail guide” means a person who has attained the age of eighteen (18) years and has at least three (3) consecutive year’s experience in assisting/or leading trail rides during the immediately preceding five (5) years.

“horse” means any animal of the equine species.

“instructor” means a person who has attained the age of eighteen (18) years and has at least five (5) consecutive year’s experience in riding or horse training in the immediately preceding seven (7) years or a person who has been certified by the Ontario Equestrian Federation, Canadian Equestrian Federation, Canadian Therapeutic Riding Association, Certified Horseman’s Association, the British Horse Society, or other credited Equine Association or Institution.

“lead line ride” means a single horse led by a walking adult holding the horse’s lead rope.

“Municipal Clerk” means the Municipal Clerk for The Corporation of the Town of Markham as appointed by By-law.

“person” includes a natural individual, a corporation, association or partnership.

“Provincial Offences Officer” means a person appointed by By-law of The Corporation of the Town of Markham as a Provincial Offences Officer pursuant to the authority under s.15 of the Police Services Act, R.S.O. 1990, c. P.15 or designated in writing by a Minister under Section 1 (3) of the Provincial Offences Act, R.S.O. 1990, c. P.33 as a Provincial Offences Officer.

“Town” means The Corporation of the Town of Markham.

2. LICENCE REQUIREMENT - OFFENCE

No person shall conduct any business in or upon any premises or part thereof, or carry on any trade or calling in the Town of Markham for which a licence is required under Section 3 hereof unless he, she or it holds a licence issued therefor by the Town and has paid the licence fee therefor, required by By-law No. 2002-284.

3. LICENCE REQUIRED - HORSE RIDING ESTABLISHMENT

A licence shall be obtained by every person who carries on the business of a horse riding establishment for the purpose of instructional or trail horse riding within the limits of the Town of Markham.

4. APPLICATION - TIME FOR

Applications for the issuance or renewal of a licence for a horse riding establishment for any given year must be received by the Municipal Clerk, in the form prescribed by the Municipal Clerk, on or before the 15th day of April for the next ensuing licence year which runs from June 16 of that same year to June 15 the following year.

5. LICENCE - MUST COMPLY WITH ZONING

No licence shall be issued for a horse riding establishment on premises where the Town's Zoning By-laws, or successor legislation thereto, does not permit the use of those premises for such purposes. This restriction does not apply to those properties which are legal non-conforming.

6. LICENCE - DISPLAY

Each horse riding establishment licence, when issued, shall be posted in a conspicuous place on the premises so licensed.

7. INSURANCE CERTIFICATE - REQUIRED

Every applicant for a horse riding establishment licence must produce a certificate signed by a licensed insurance broker certifying that the premises in respect of which the licence has been applied for has been insured for general liability and personal injury in the sum of not less than two (2) million dollars (Canadian) for any one (1) occurrence prior to the date of the application and be endorsed to provide that the policy will not be altered, cancelled or allowed to lapse without thirty (30) days prior written notice to the Town.

8. LICENCE - REQUIREMENTS

No person shall be entitled to obtain a licence where:

- A. the past conduct of the applicant or licensee affords reasonable grounds for the belief that the applicant or licensee will not carry on the activity for which the applicant is licensed or to be licensed, in accordance with law;
- B. the issuance of the licence or renewal of the licence would be contrary to the public interest;
- C. the applicant or licensee is carrying on activities that are, or will be, if the applicant is licensed, in contravention of this By-law;

- D. there are reasonable grounds for belief that the premises, accommodation, equipment or facilities in respect of which the licence is required do not comply with the provisions of this By-law or other applicable law; and/or conditions necessary for granting of insurance; or
- E. if the applicant or licensee is a corporation, the past conduct of the officers or directors affords reasonable grounds for the belief that the applicant or licensee will not carry on the activity for which the application is to be licensed in accordance with law.

9. LICENCE REVOCATION

A licence granted pursuant to this By-law may be revoked where the licensee does not comply with the provisions of this By-law or where such licence has been issued through error.

10. LICENCE SUSPENSION

Where any licensee is convicted of an offence under this By-law, the licence shall be suspended forthwith and shall not be reinstated until a Provincial Offences Officer certifies in writing that the conditions resulting in the conviction have been remedied and that the premises and its proposed operation comply with this By-law.

11. LICENCE - EXPIRATION

Licences issued under the provisions of this By-law, unless otherwise expressed to be granted for a shorter period, shall expire at 12:00 a.m. on the 15th day of June in the year following the year in which they are issued.

12. LICENCE - NON-TRANSFERABLE

No licence issued pursuant to this By-law is assignable or transferable.

13. LICENCE - PARTNERSHIP

Persons associated in a partnership applying for a licence under this By-law shall file with their application a statutory declaration, in writing, signed by all members of the partnership, which declaration shall state:

- A. the full name of every partner and the address of his, her or its ordinary residence;
- B. the name or names under which they carry on or intend to carry on business;
- C. that the persons therein named are the only members of the partnership; and
- D. the mailing address of the partnership.

14. LICENCE - CORPORATION

Every corporation applying for a licence shall file with their application a copy of its articles of incorporation or other incorporating document and shall file a statutory declaration, in writing, signed by an officer of the corporation, which declaration shall state:

- A. the full name of every officer and director and the address of each officer's and director's ordinary residence. Information regarding the full name and address of shareholders must be kept on file by the corporation and must be made available to the Town upon request;
- B. the name or names under which it carries on or intends to carry on business;
- C. that the persons therein named are the only officers, directors and shareholders of the corporation; and
- D. the mailing address for the corporation.

15. HEARING

- I. Where the Municipal Clerk believes that the applicant or licensee would be disentitled to a licence or a renewal thereof for any of the reasons set out in this By-law, the Municipal Clerk shall not issue the licence and the Municipal Clerk shall recommend to Council that Council shall refuse to issue or refuse to renew the licence, or that Council suspend or revoke the licence, or recommend that a licence be issued subject to terms and conditions.
- II. Before Council refuses to issue or refuses to renew a licence, or revokes or suspends or cancels a licence, a written notice advising the applicant or licensee of the recommendation being made by the Municipal Clerk to Council with respect to the license shall be given to the applicant or licensee by the Municipal Clerk.
- III. The written notice to be given hereunder shall:
 - A. set out the grounds for the recommendation;

- B. give reasonable particulars of the grounds;
 - C. be signed by the Municipal Clerk; and
 - D. inform the applicant or licensee that they are entitled to a hearing before the Council, if they deliver, within seven (7) days after the date of service of the written notice, or the date of personal service of the written notice, whichever is later, a written request for a hearing before the Council.
- IV. On receipt of a written request for a hearing from an applicant or licensee, the Municipal Clerk shall advise Council and request Council to convene a meeting and shall give the applicant or licensee reasonable written notice thereof.
- V. The applicant or licensee shall have the right to make submissions in support of an application or renewal or retention of a license at such hearing and when the applicant or licensee who has been given written notice of the hearing, does not attend at the proper time and place, the Council may proceed with the hearing in the applicant's or licensee's absence and the applicant or licensee shall not be entitled to any further notice of the proceedings.
- VI. At the conclusion of the hearing the Municipal Clerk shall, as soon as practicable, prepare a written report on the hearing, which shall summarize the evidence and the arguments presented by the parties to the hearing, set out the findings of fact and the decisions made by the Council and set out the reason for the decision.
- VII. If the applicant or licensee signifies that he is prepared to accept conditions upon the licence and to make no objection to such conditions, Council may grant a licence or the renewal of a licence upon which conditions as the Council consider appropriate.

16. INSPECTION OF PREMISES

The Municipal Clerk or a Provincial Offences Officer may at any time during regular business hours, enter upon the business premises of any licensee to ensure compliance with the provisions of this By-law.

17. REGULATION OF CARRYING ON BUSINESS

- I. No person shall carry on the business of a trail riding establishment:
- A. and rent a horse to a person under the age of eighteen (18) years unless that person is wearing a designated riding helmet which is properly fitted and fastened securely upon the rider's head by an attached harness, at all times while that person is mounted on a horse;
 - B. and rent a horse to a person unless that person is wearing properly fitting, hard

- and smooth soled footwear with a defined heel or proper riding footwear with a defined heel;
 - C. and conduct trail riding with less than one (1) head trail guide for the first six (6) persons and an assistant trail guide for every additional six (6) persons;
 - D. and conduct trail riding without a head trail guide or assistant trail guide carrying, at all times, a two-way communication device where its signal will be received by another head trail guide or assistant trail guide who is not also on the same trail ride;
 - E. and permit more than one person to ride a horse at the same time except for disabled riders with special needs within a designated controlled environment;
 - F. and rent a horse unless that horse is known to be safe, sound and schooled for the purposes intended and appropriately suited to the rider's size and ability;
 - G. and rent a lame, sick or blind horse,
 - H. and rent a horse unless the horse is a minimum of three (3) years of age and the horse has one (1) year of schooling unless that person is the owner of that horse; and provided that horses rented between three (3) years of age and (6) years of age shall have proof of an annual (minimum) dental inspection by an equine dentist or veterinarian.
 - I. and permit any person with less than fifty-two (52) hours riding experience to mount or dismount a horse for the purpose of trail riding unless that horse is held at the bridle by an employee or volunteer of the person carrying on the business and who is supervised by a head trail guide; or
 - J. and rent to a person to ride a horse where that person is taking, consuming, possessing or is, or appears to be, intoxicated by alcohol or a drug on any premises used for the carrying on of the business of a trail riding establishment;
- II. No person shall carry on the business of an instructional riding establishment:
- A. and instruct a person under the age of eighteen (18) years to ride a horse unless that person is wearing a designated riding helmet which is properly fitted and fastened securely upon the rider's head by an attached harness, at all times while that person is mounted on a horse;
 - B. notwithstanding Section 17 (2) (a), for the purposes of dressage or precision riding performed as part of a special event where ceremonial dress is worn by all riders, the requirements under Section 17 (2) (a) will not apply.
 - C. and rent a horse to a person unless that person is wearing properly fitting, hard and smooth soled footwear with a defined heel or proper riding footwear with a defined heel;

- D. and permit more than one person to ride a horse at the same time except for special needs instructions for disabled riders;
- E. and rent a horse unless that horse is known to be safe, sound and schooled for the purposes intended and appropriately suited to the rider's size and ability;
- F. and rent a lame, sick or blind horse,
- G. and instruct a person to ride a horse unless the horse is a minimum of three (3) years of age and has one (1) year of schooling unless that person is the owner of that horse; and provided that horses rented between three (3) years of age and (6) years of age shall have proof of an annual (minimum) dental inspection by an equine dentist or veterinarian.
- H. and permit any person with less than fifty-two (52) hours riding experience to mount or dismount a horse for the purpose of instructional riding unless that horse is held at the bridle by an employee or volunteer of the person carrying on the business and who is supervised by an instructor; or
- I. and rent to a person to ride a horse where that person is taking, consuming, possessing or is, or appears to be, intoxicated by alcohol or a drug on any premises used for the carrying on of the business of a instructional riding establishment;

18. FOOTWEAR - EXCEPTION

Provided that Subsections 17 (1) (b) and 17 (2) (c) of this By-law shall not apply where a rider has been provided with proper functioning and appropriately sized hooded stirrups, safety stirrups which are designed to prevent a rider's foot from passing through or becoming wedged in the stirrup or stirrups which are designed to break-away when a rider falls from the horse.

19. INSTRUCTORS - MINIMUM QUALIFICATIONS

No person shall instruct persons in the riding of horses at a instructional riding establishment unless:

- A. they have attained the age of eighteen (18) years and they have at least five (5) consecutive year's experience in riding or training horses during the immediately preceding seven (7) years; or
- B. they have attained the age of eighteen (18) years and they have been certified by the Canadian Equestrian Federation, Ontario Equestrian Federation, Canadian Therapeutic Riding Association, Certified Horseman's Association, British Horse Society or other credited Equine Association or Institution.

20. ASSISTANT INSTRUCTORS - MINIMUM QUALIFICATIONS

Notwithstanding the provisions of Section 19 of this By-law, a person shall be permitted to assist in the instruction of persons in the riding of horses at an instructional riding establishment where:

- A. they have attained the age of sixteen (16) years;
- B. they have at least three (3) consecutive year's experience with horses in the immediately preceding five (5) years; and
- C. and they are under the supervision of an instructor who meets the qualifications as provided for in Section 19 of this By-law.

21. HEAD TRAIL GUIDE - MINIMUM QUALIFICATIONS

No person shall conduct or lead a trail ride at a trail riding establishment unless they have attained the age of eighteen (18) years and they have at least three (3) consecutive year's experience assisting or leading trail rides in the immediately preceding five (5) years. All head trail guides employed by a trail riding establishment must hold a current certification in first aid and cardiopulmonary resuscitation and shall maintain a fully stocked first-aid kit on the premises.

22. ASSISTANT TRAIL GUIDE - MINIMUM QUALIFICATIONS

No person shall assist the head trail guide on a trail ride at a trail riding establishment unless they have attained the age of sixteen (16) years and they have at least three (3) consecutive year's experience riding or working with horses at a trail riding establishment in the immediately preceding five (5) years. All assistant trail guides employed by a trail riding establishment must hold a current certification in first aid and cardiopulmonary resuscitation.

23. PROHIBITION FROM CONSUMING ALCOHOL OR DRUGS

No person shall instruct or assist in the instruction of persons in the riding of horses at an instructional riding establishment or conduct or lead or assist in the conducting or leading of a trail ride at a trail riding establishment while taking, consuming, possessing or being, or appearing to be, intoxicated by alcohol or a drug.

24. MINIMUM AGE FOR TRAIL RIDING ESTABLISHMENTS

No person shall carry on the business of a trail riding establishment and rent to a person under the age of ten (10) years a horse for the purpose of trail riding.

25. LEAD LINE RIDING - FOR TRAIL RIDING ESTABLISHMENTS

Notwithstanding the provisions of Section 24 of this By-law, a person who carries on the business of a trail riding establishment may rent to a person who has attained the age of at least six (6) years to lead line ride a horse where the horse is led by a capable walking adult who is in control of the horse.

Where the person is under the age of six (6) years, the lead line ride will be led by a capable walking adult who is in control of the horse and accompanied by a walking spotter.

26. CONDITION OF GROUNDS

No person shall carry on the business of a horse riding establishment on premises without keeping that portion of the said premises ordinarily used for the riding of horses clear of all ground and over-hanging obstructions. Where said obstructions cannot be cleared, the person carrying on the business of a horse riding establishment shall barrier these obstructions such that horses and riders will not come in contact with them.

27. CONDITION/FIT OF TACK

Prior to beginning instruction or conducting or leading a trail ride, the instructor, head trail guide or an assistant instructor assigned to that instruction or ride, as the case may be, shall examine the condition and fit of all equipment to be used by each rider to ensure that it is clean, supple, well-fitting, secure and fully functional.

28. INITIAL INFORMATION FOR TRAIL RIDING

Prior to conducting or leading a trail ride, the head trail guide or an assistant trail guide assigned to the ride, as the case may be, shall provide basic information on the handling of a horse and the basics of riding a horse.

29. SIGNAGE

A premises which contains a trail riding establishment shall contain a sign, to be created and erected at the expense of the licence application/holder, with lettering a minimum of one half (1/2)

inch in height and the location of which shall be as approved by the Municipal Clerk, and which is in the form as prescribed by Schedule "A".

A premises which contains an instructional riding establishment shall contain a sign, to be created and erected at the expense of the licensed application/holder, with letter a minimum of one half (1/2) inch in height and the location of which shall be approved by the Municipal Clerk, and which is in the form as prescribed by Schedule "B".

30. FIRST AID CERTIFICATION

All head trail guides and assistant trail guides employed by a trail riding establishment must hold a current certification in first aid and cardiopulmonary resuscitation and shall maintain a fully stocked first-aid kit on the premises. A qualified first aid provider, with current certification in first aid and cardiopulmonary resuscitation, must be available whenever lessons are being conducted at an instructional riding establishment and a fully stocked first-aid kit must be maintained on the premises.

31. FALSE INFORMATION - PROHIBITED

No person shall knowingly give false information when applying for a licence under this By-law.

32. CONTRAVENTION - FINE

Every person who contravenes a provision of this By-law is guilty of an offence and upon conviction is liable to a fine not exceeding five thousand dollars (\$5,000.00) exclusive of costs, pursuant to the provisions of the Provincial Offences Act, as amended.

33. SEVERABILITY - VALIDITY

Each and every one of the provisions of this By-law is severable and if any provisions of this By-law should, for any reason, be declared invalid by any court, it is the intention and desire of this Council that each and every of the then remaining provisions hereof shall remain in full force and effect.

34. By-law No. 58-2000, "A By-law to regulate horse riding establishments in the Town of Markham and provide for safety measures for persons while riding at those establishments" 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

SCHEDULE "A"

SIGN TO BE POSTED ON LICENCED PREMISES OF A TRAIL RIDING ESTABLISHMENT

The following regulations are imposed by the Town of Markham By-law Number 2002-299 which governs the operation of this business:

Patrons are advised that even with this safety equipment, horse riding contains inherent risks which may result in serious injury or death;

Maximum six (6) riders per leader;

Minimum age for trail riding is ten (10) years;

Lead line riding is permitted for children under the age of ten (10);

Helmets to be worn by all persons under age eighteen (18) and strongly recommended for person over eighteen (18);

Hard and smooth soled shoes with a defined heel must be worn by all riders unless using hooded, safety or break-away stirrups;

Inexperienced riders are asked to identify themselves to the instructor/leader; and

Patrons must disclose any medical problem or condition which may cause risk during the trail ride.

SCHEDULE “B”

**SIGN TO BE POSTED ON LICENCED PREMISES
OF A INSTRUCTIONAL RIDING ESTABLISHMENT**

The following regulations are imposed by the Town of Markham By-law Number 2002-299 which governs the operation of this business:

Patrons are advised that even with this safety equipment, horse riding contains inherent risks which may result in serious injury or death;

Helmets to be worn by all persons under age eighteen (18) and strongly recommended for person over eighteen (18);

Hard and smooth soled shoes with a defined heel must be worn by all riders unless using hooded, safety or break-away stirrups;

Patrons must disclose any medical problem or condition which may cause risk during instructions.