

TOWN OF MARKHAM
Ontario



BY-LAW 2002-303

**A BY-LAW TO LICENSE AND REGULATE
MOBILE VENDORS**

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

BY-LAW 2002-303

A By-law to License and Regulate Mobile Vendors

WHEREAS the *Municipal Act, 2001* empowers Council to pass by-laws for licensing, regulating and governing any business carried on within the municipality;

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 mobile vendors.

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

Definitions

1. In this by-law:
 - (a) “applicant” means a person who applies for a licence under this by-law;
 - (b) “designated area” means an area designated for the purpose of selling products therefrom and may include an area designated for the parking of a vehicle or a portable display unit for the purpose of selling products therefrom;
 - (c) “highway” includes the entire right-of-way of a common and public highway, street, avenue, parkway, driveway, square, place, bridge, viaduct or trestle, designed and intended for, or used by, the general public for the passage of vehicles;
 - (d) “Licencing Officer” means a person employed by the Town of Markham and appointed as a licensing officer;
 - (e) “mobile vendor” means:
 - (i) a hawker or pedlar or any person who goes from place to place or to a particular place with products for sale, or who carries and exposes samples, patterns or specimens of any products that are to be delivered in the municipality afterwards; and
 - (ii) any corporation, partnership or association which has an employee or agent who goes from place to place or to a particular place with products for sale, or who carries and exposes samples, patterns or specimens of any products that are to be delivered in the municipality afterwards;

- (f) “portable display unit” means a push cart or other portable display unit not to exceed 2.32 square metres in dimension approved by this by-law for the purpose of selling products;
 - (g) “products” include goods, wares, crafts, jewellery, refreshments, foodstuffs, merchandise or any other items whatsoever;
 - (h) “retail” or “retail sale” means the sale of products in the ordinary course of business;
 - (i) “sell” means to sell for retail, offer for retail sale, display, place or expose any products for retail sale;
 - (j) “Town” means The Corporation of the Town of Markham; and
 - (k) “vehicle” means a vehicle or push cart from which products are sold.
2. Subject to Section 3, no mobile vendor shall sell, or cause or offer to sell at any time any product unless such person is in possession of a licence issued pursuant to this by-law.
3. Any person may apply for a mobile vendor licence:
- (a) to sell products in a designated area;
 - (b) to sell products from a vehicle to be parked in a designated area specified in the licence; or
 - (c) to sell products from a portable display unit to be located in a designated area specified in the licence.
4. The issuance of a mobile vendor licence shall be subject to the following conditions:
- (a) the applicant shall complete an application for a licence in the form provided by the municipality including such information as may be required by the Town from time to time;
 - (b) the applicant shall pay to the Town a non-refundable application fee in the amount identified in By-law No. 2002-284; and
 - (c) the applicant shall identify the proposed location for the designated area, and shall provide a letter from the property owner or property manager permitting the use of his/her land for the proposed use;

- (d) Every owner of a vehicle or cart operating by propane shall file annually with the Town of Markham, during the licence 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 Minister of Consumer and Commercial Relations. And further, all companies performing this task shall be a registered contractor under the Energy Act.
5. The proposed location for the designated area shall comply with the following criteria:
 - (a) no portion of the designated area shall be located on a highway or part thereof;
 - (b) no portion of the designated area shall be located directly in front of an entrance or exit from a building;
 - (c) the designated area shall be located only on land zoned by the applicable zoning by-law to permit a commercial or industrial use;
 - (d) the designated area shall not be located within 500 metres of a business establishment or another designated area in which similar products are sold;
 - (e) the designated area shall not be located within 50 metres of a signalized intersection; and
 - (f) the designated area shall be set back at least 15 metres of a highway.
6. Notwithstanding Section 5 of this by-law, a licensed vendor may apply for permission to sell products in a Town park. Such permission shall be in writing from the appropriate department of the Town of Markham and may be subject to restrictions at the discretion of the Town.
7. A licence to sell products shall not be required if:
 - (a) the products are sold by a Registered Charitable Organization, or a local Town of Markham Service Club at a location approved by the Town; or
 - (b) the products sold are in conjunction with and part of a community festival of the Town of Markham and the vendor has received permission in writing from the organizers of the festival to sell within the celebration area.
8. A licence issued pursuant to this By-law shall be valid for one calendar year (January 1 to December 31) or any part thereof, and the annual licence fee shall not be pro-rated for any part of a year.

9. Every person that obtains a licence pursuant to this by-law shall at all times while carrying on his/her business have the licence in their possession and shall upon demand produce it for examination to a Provincial Offences Officer or Police Officer.
10. Every person that obtains a licence pursuant to this by-law shall comply at all times with the provisions of this by-law, the terms and conditions prescribed by the licence and with the terms of any agreement entered into with the Town as a condition of receiving such licence.
11. Every person who contravenes any provision of this by-law is guilty of an offence and upon conviction is liable to a fine of not more than \$5,000.00, exclusive of costs.
12. By-law No. 64-97, "A by-law to license and regulate mobile vendors" shall be repealed effective January 1, 2003.

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

"Sheila Birrell"

"Don Cousens"

TOWN CLERK

MAYOR