



BY-LAW 2011-75

TO AMEND BY-LAW 2002-305
Being a By-law to Provide for the Licensing and
Regulation of Refreshment Vehicles

Whereas the Council of The Corporation of the Town of Markham enacted By-law 2002-305 on December 10, 2002 to Provide for the Licensing and Regulation of Refreshment Vehicles; and

Whereas additions and deletions to the said by-law are required to reflect changes in the industry and to eliminate areas of vagueness and uncertainty, and

Whereas the penalty provision of the *Provincial Offences Act* is from time to time amended; and

Whereas replacing Section 8 of the By-law 2002-305 with a generalized section will facilitate any amendments made to the *Provincial Offences Act*;

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

1. That the following Subsection 1(a) be deleted in its entirety:
 - (a) “refreshment vehicle” means any vehicle from which refreshments, which have been prepared and packaged under clean and sanitary conditions at a location other than on the vehicle, are offered for sale for consumption by the public; and
2. That the following be inserted as Subsection 1(a):
 - (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.
3. That the following definitions be added immediately following Subsection 1(b):
 - (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.

4. That the following definition be added immediately following Subsection 1 (c):
 - (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.
5. That the following Subsection 3 (b) of By-law 2002-305 be deleted in its entirety:
 - (b) "the appropriate fee as specified in By-law No. 2002-284.", and
6. That the following be inserted as Subsection 3 (b):
 - (b) "the appropriate fee as specified in the Town of Markham Licensing Fees and Charges By-law."
7. That the following Section 8 be deleted in its entirety:

"Any person who contravenes any provision of this by-law is guilty of an offence, pursuant to the Provincial Offences Act, upon conviction is liable to a fine of not more than five thousand dollars (\$5,000) for each offence committed.", and
8. That the following be inserted as Section 8 to By-law 2002-305:

"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."

READ A FIRST, SECOND, AND THIRD TIME AND PASSED THIS
22ND DAY OF MARCH, 2011.



KIMBERLEY KITTERINGHAM
TOWN CLERK

FRANK SCARPITTI
MAYOR