



2012-XXX

**THE CORPORATION OF THE TOWN OF MARKHAM
LICENSING, PERMIT AND SERVICE FEES
BY-LAW**

WHEREAS, it is expedient to consolidate existing municipal licensing, permit and service fees into a single by-law by amending By-law 2002-276, being a General Fees By-law for the Town of Markham by deleting certain fees from it and by repealing By-law 2002-284, being a By-law to Establish Licences Fees for the Town of Markham by transferring the provisions contained therein to a new comprehensive Licensing, Permit and Service Fee By-law; and

WHEREAS, it is necessary where authorities exist or where new authorities are granted to periodically add new user fees and charges as administrative and enforcement standard operating procedures are modified or enhanced; and

WHEREAS Section 11 (1) of the *Municipal Act*, 2001, S. O. 2001, c. 25, as amended, authorizes a municipality to provide any service or thing that the municipality considers necessary or desirable for the public; and

WHEREAS Section 151 (1) of the *Municipal Act*, 2001 permits municipalities to provide for a system of licences with respect to any activity, matter or thing for which a by-law maybe passed under Section 11; and

WHEREAS Section 151 (1) (g) of the *Municipal Act*, 2001 may require a person, subject to such conditions as the municipality considers appropriate, to pay an administrative penalty if the municipality is satisfied that the person has failed to comply with any part of a system of licences established by the municipality, and

WHEREAS Section 391 of the *Municipal Act*, 2001, S. O. 2001, c. 25, as amended, authorizes a municipality by by-law to impose fees or charges on persons for services or activities provided or done by or on behalf of it; and

WHEREAS it has been determined, that it is appropriate to require the payment by a licensed business of additional fees at any time during the term of the licence for costs incurred by the municipality attributable to the activities of the business including late licence renewal charges;

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

DEFINITIONS

1. In this by-law,

Additional Charge means a charge in addition to the *licence fee*, imposed by the municipality on a business at any time during the term of the *licence* for costs incurred by the municipality attributable to the activities of the business;

Applicant means a person applying for a new *licence* or renewing a *licence* issued by the *Town*;

Clerk means *clerk* for the *Town* or his or her designate;

Charge means a fixed sum assessed or added to a *licence* or other service or any service rendered on behalf of an *applicant* or licensee and may include administrative *charges*;

Consumer Price Index means the All Item Index of the *Consumer Price Index* (not seasonally adjusted) for the Toronto Census Metropolitan Area, published by Statistics Canada, during the twelve-month period ending in July 1 in the year immediately preceding the year;

Council means the *Council* of the Corporation of the Town of Markham;

Fee means the monetary payment imposed for the act of issuing a *licence*, business registration, *permit*, or for renewal of a *licence*;

Licence means the certificate issued under the Licensing By-laws of the *Town* as proof of licensing under the applicable by-law;

Licensee means the person licensed under a Town of Markham Licensing by-law;

Licensing Officer means the person appointed by *Council* to administer and enforce the Licensing By-laws and the Animal Control By-law of the Town of Markham and includes his or her designates;

Mobile Business includes any class of business licensed by the *Town* where a vehicle whether standing or mobile is an integral part of the operation of the business;

Notice of Additional Fee means a written notice from the *Licensing Officer* to a *licensee* advising them of their requirement to pay an *additional fee*;

Owner means a Person who alone or with others own and or/ has ultimate control over and/ or directs the operation of a business;

Permit means the means the certificate issued under the By-laws of the *Town* as proof of permission under the applicable by-law;

Stationary Business includes a business that operates from a fixed location within the *Town* or outside the boundaries of the *Town* but doesn't include *mobile business*; or personal service business;

Tax Roll means a listing of all taxable property in the *Town* for a given year;

Town means the Corporation of the Town of Markham in the Regional Municipality of York;

REQUIREMENTS TO PAY FEES AND CHARGES

2. Every application for a *licence*, business registration or *permit* listed in the Schedules of this by-law and every application to renew a *licence*, business registration, and *permit* shall be accompanied by the prescribed *fee* as listed in the attached Schedules of this By-law.
3. Where services conducted by the *Town* on behalf of a property *owner*, are necessary in order to maintain bylaw compliance with the property, service *charges* shall apply as outlined in Schedule "B" of this bylaw.

ADDITIONAL CHARGES & ADMINISTRATION FEES

4. Notwithstanding any other provision of this By-law, the Manager, By-law Enforcement & Licensing may impose *additional charges* on a *licence applicant*, *licensee*, or a person obtaining a registration or *permit* by way of *notice of additional charge* at any time during the application process or the term of the *licence*, registration or *permit* for costs incurred by the municipality attributable to the activities of the *applicant*, *licensee*, registrant, *permit* holder.
5. The *notice of additional charge* shall be sent to the *applicant*, *licensee*, registrant, *permit* holder by regular mail, electronic mail or by facsimile and shall be deemed to be served after five days from the date of regular mailing and on the first day after transmission by electronic mail or by facsimile and shall provide the

applicant, licensee, registrant, permit holder with sixty days (60) from the date of the notice of additional charge to pay the outstanding amount.

DELEGATION TO MANAGER

6. *Council hereby delegates to the Manager, By-law Enforcement & Licensing and/or his or her designate, in his or her discretion, to waive, reduce or otherwise vary the licence fee or registration fee, in accordance with the general criteria for such waiver reduction or variation as set out in departmental policy with respect to that item.*

PRORATED POLICY

7. *The licence or registration fee for any new business, occupation, trade, calling or activity set out in Schedule "C" to this by-law shall be prorated in accordance with the standard departmental formula utilized to determine the prorated licensing fee if an application for a licence or registration is submitted along with supporting documentation to the satisfaction of the Licensing Officer within one month of the acquisition of the business, occupation, trade, calling or activity and where the remaining term of the licence is less than twelve months.*

LATE RENEWAL CHARGES

8. *Where a person holding a licence as listed in Schedule 'A' of this by-law submits a renewal application for the licence to the Licensing Officer after the expiry of the licence a late renewal charge shall be applied in addition to the annual licence renewal fee.*
9. *The late renewal charge applied to all licences as listed in Schedule 'A' of this by-law shall be a flat rate and determined in accordance with departmental formula and shall be annually adjusted based on the Consumer Price Index.*
10. *An expired licence maybe renewed without being subject to any applicable new application required training and/or testing within one year of the licence expiry date providing all licence fees and charges are paid in full and where all required documentation is submitted and approved by the Licensing Officer.*
11. *Where all or part of a fee or charge imposed by this By-law is related to real property within the Town and where the fee or charge remains unpaid after ninety (90) days, such fee or charge may be added to the tax roll for the property, which is owned, in whole or in part, by the person upon whom the fee or charge is imposed, and shall be collected in a like manner as municipal taxes.*
12. *Every owner of the real property to whose tax roll the fee or charge is added shall be liable jointly and severally for paying such fee or charge.*

SALES TAX ADDED

13. *The fees and charges as listed in Schedule "A, B, & C" to this By-law will be subject to the Harmonized Sales Tax (HST) where applicable.*

PAYMENT METHODS AND INTEREST PAYMENTS

14. *The fees and charges as listed in the Schedules to this By-law may be paid by cash, cheque, money order, debit card or credit card in accordance with Corporate Policy.*

INTEREST AND PENALTIES

15. *Interest penalties for unpaid amounts owing for fees and charges will be charged in accordance with Corporate Policy.*

ADMINISTRATION AND ENFORCEMENT

16. *All unpaid fees and/or charges imposed by the Town are a debt to the Town and the Town may take such action as it considers necessary and as permitted by law to collect the debt.*

SEVERABILITY

16. Notwithstanding that any section or sections of this By-law, or any part or parts thereof, may be found by any court of law to be invalid or beyond the power of the *Council* to enact, such section or sections or part or parts thereof shall be deemed to be severable, and all other sections of this By-law, or parts thereof, are separate and independent there from and enacted as such.

SCHEDULES

17. *Council* hereby establishes the *licence*, *permit* and service inclusive of prorated *licences* as set out in Schedules "A, B, & C" of this by-law and schedule "A, B, & C" shall be deemed an integral part of this By-law.

REVIEW OF SCHEDULES

18. All *fees* and *charges* contained within Schedule "A, B, & C" of this By-law will be automatically increased for the next calendar year and be rounded to the nearest dollar on the percentage increase in the All Index Toronto *Consumer Price Index* (C.P.I.) as reported in December based on the previous year's average.

INTERPRETATION

19. The provisions of the *Legislation Act* S.O. 2006 shall apply to this By-law as required.

SHORT TITLE

20. This By-law shall be known as the Licensing, Permit and Service Fees By-law".

CONFLICT

21. In the event of a conflict between a *fee* or *charge* or policy contained in this by-law and another by-law or any other Act or regulation made under any other Act, the provisions of this by-law shall prevail.

BY-LAW AMENDMENT AND REPEAL

22. By-law 2002-276, as amended, is hereby amended by deleting the *fees* and *charges* in the "Corporate Services-By-laws and Enforcement" section of the By-law.
23. By-law 2002-284, as amended, is hereby repealed.

EFFECTIVE DATE

24. This By-law shall come into force and effect on the date of enactment and passage.

READ A FIRST, SECOND, AND THIRD TIME AND PASSED THIS DAY OF MONTH, 2012.

"Kimberley Kitteringham"

"Frank Scarpitti"

CLERK

MAYOR

TOWN