



BY-LAW 2012-123

To Amend By-law 2012-92, Being a By-law to License and Regulate Mobile Businesses on the Town of Markham to Provide for the Licensing and Regulation Of Owners, Operators, Drivers and Attendants Of Ice Cream Trucks

WHEREAS Section 151 of the Municipal Act, 2001 S.O. 2001, c.25, provides that a local municipality may license, regulate and govern any business wholly or partly carried on within the municipality even if the business is being carried on from a location outside the municipality; and,

WHEREAS Council wishes to exercise its powers over businesses, the persons carrying on or involved in the operation of the businesses including the powers to impose conditions on the obtaining, holding or renewing of licences and for the suspension, denial and revocation of licences; and,

WHEREAS the regulation of the businesses and the requirement for a licence and the imposition of conditions will aid in the administration and enforcement of this By-law and other laws, so as to identify and qualify the persons responsible for the operation of the business, identify the location of businesses, the regulation and inspection of equipment, vehicles, premises and other property used to carry on business, and allow for the protection of persons dealing with or affected by such businesses and persons;

NOW THEREFORE the Council of The Corporation of the Town of Markham HEREBY ENACTS the following:

1. THAT Section 1.0 of By-law 2012-92 be amended by adding the following definitions:

“REFRESHMENT VEHICLE – TYPE “3” means A VEHICLE licensed or required to be licensed and is designed for or intended to be used for the selling, offering for sale, serving, and/or dispensing of ice cream;

“REFRESHMENT VEHICLE ASSISTANT” – means a PERSON licensed or required to be licensed who assists an OWNER or DRIVER of a REFRESHMENT VEHICLE – TYPE “3” but does not drive the REFRESHMENT VEHICLE;

2. THAT Section 5.0 of By-law 2012-92 be amended by adding the following licence requirement:

(12) every PERSON who is a REFRESHMENT VEHICLE ASSISTANT.

3. THAT Section 1.0 of Schedule 5 of By-law 2012-92 be amended by adding the following:

(3) Refreshment Vehicle Attendant

4. THAT the Schedule 5 of By-law 2012-92 be amended by adding the following:

REFRESHMENT VEHICLE OWNERS – TYPE 3

7. Every REFRESHMENT VEHICLE – TYPE “3” OWNER shall:

(1) ensure that the vehicle shall be of an enclosed commercial type so designed that the cab is entirely separated and partitioned from, and has no direct access to, the body of the vehicle used for the storage and dispensing of refreshments;

(2) ensure that a refreshment vehicle licensed and used as such prior to January 1, 1966, may be of a type in which there is direct access from the cab to the body of the vehicle used for storage and dispensing, provided such vehicle is equipped with a device approved by the LICENSING OFFICER, whereby the serving windows must be locked and unlocked from the outside only and the engine of the vehicle cannot be started or operated while the serving windows remain open;

(3) ensure that vehicles shall be equipped with a properly maintained and operational device by which the engine of the vehicle cannot be started or operated while the serving windows of the vehicle are open;

(4) ensure that all vehicles shall be equipped with a properly maintained and operational audible sound-emitting warning device which is activated when the vehicle is operating in reverse;

(5) ensure that 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;

(6) ensure that 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;

(7) ensure that 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;

(8) ensure that the storage shelves in the vehicle shall be painted or shall consist of a suitable impervious material;

(9) ensure that the vehicle shall be equipped with either 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 a disposable litter container which shall be replaced daily; and such containers shall be used for the disposal of all refuse;

(10) ensure that the storage area of vehicles from which hard ice cream and related products are sold shall be maintained at a temperature no higher than minus-fifteen (-15) degrees Celsius and such area shall be equipped with an accurate, indicating thermometer;

(11) ensure that all vehicles where soft ice cream and related products are sold shall have:

(a) two (2) sinks of adequate size and of non-corrodible material equipped with hot running water;

(b) a tank to receive sink wastes;

(c) a refrigerated cabinet for storage of ice cream mix and other milk products which cabinet shall be maintained at a temperature no higher than five (5) degrees Celsius and shall be equipped with an accurate, indicating thermometer;

(d) storage for dry products, sundae toppings, and syrups, which storage shall be easily cleanable and where necessary of a type readily dismantled for cleaning;

(e) all dispensing equipment, whether for dry cones, single service containers, ice cream, syrups or toppings, of sanitary design;

(f) mechanical air-conditioning in the vending and dispensing part of the vehicle;

(g) adequate insulation to prevent fumes from the engine or engines from reaching the vending and dispensing section of the vehicle; and,

(h) Screens or other devices to ensure adequate protection against flies and dust.

(12) ensure that every vehicle shall have attached thereto at the top or near the highest point thereof at least two (2) amber lights visible by a person one-point-five-two (1.52) metres in height at a distance of not more than one-point-two (1.2) metres in front of or behind the vehicle, and the vehicle shall be equipped with a mechanical device causing such amber lights to flash alternately at all times when the vehicle is stopped for the sale of ice cream products and other frozen confections, and such device shall be so operated at all such times;

(13) ensure that every vehicle shall have conspicuously displayed on the rear thereof in black letters on a yellow background "WATCH FOR CHILDREN" in letters at least fifteen centimetres (15) centimetres high, and such background shall be at least twenty-two-point-eight (22.8) centimetres high;

(14) ensure that every vehicle shall have a cover over each of its bumpers which cover shall be on a curve or angle to the rear of the vehicle;

(15) ensure that every refreshment vehicle to which this section relates shall have painted in contrasting colour on both side panels in letters and figures at least ten (10) centimetres high the name and business address of the owner thereof; and below such name and address in letters at least six-point-three (6.3) centimetres high the words "Markham Licence" followed by the licence number of such vehicle in figures at least fifteen (15) centimetres high;

(16) ensure that every refreshment vehicle to which this section relates shall:

(a) at the time he or she receives his or her licence, specify to the LICENSING OFFICER the source of supply of all refreshments to be sold from the vehicle;

(b) notify the LICENSING OFFICER forthwith of any change in such source of supply; and,

(c) refrain from selling or permitting to be sold from the vehicle any refreshments from a source of supply other than that specified by him or her to the LICENSING OFFICER.

(17) ensure that no vehicle licensed under this section shall be used for the sale of products other than those to which this section relates;

(18) ensure that none of the products mentioned in this section shall be sold from a vehicle other than a motor vehicle;

(19) ensure that no person to whom this section relates shall sell any products to which this section relates not prepared, assembled and wrapped in premises and under conditions complying entirely with the requirements of the Ontario Medical Officer of Health; and

(20) ensure that whenever required so to do by the LICENSING OFFICER bring such vehicle to any person designated by the LICENSING OFFICER for inspection at the place and time indicated by the LICENSING OFFICER.

REFRESHMENT VEHICLE – TYPE 3 PROHIBITIONS


8. No REFRESHMENT VEHICLE – TYPE “3” OWNER shall:

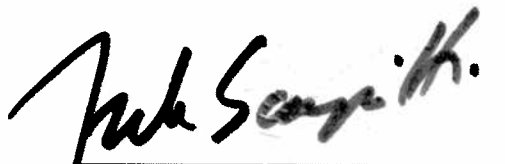
(1) permit or allow any person other than a licensed driver or assistant to operate the refreshment vehicle or any person other than a licensed driver or licensed assistant to assist in the sale of refreshments from the vehicle;

9. No REFRESHMENT VEHICLE OWNER, DRIVER OR ASSISTANT shall:

(1) serve any customer standing on the travelled portion of a highway; and
(2) ring bells or chimes or making any other recognizable sounds more frequently than at five-minute intervals or for more than five seconds at a time in one place, or after sunset.

READ A FIRST, SECOND, AND THIRD TIME AND PASSED THIS
29TH DAY OF MAY, 2012.



KIMBERLEY KITTINGHAM
TOWN CLERK

FRANK SCARPITTI
MAYOR