



BY-LAW 2024-50

To amend Bylaw 2017-27 Keep Markham Beautiful (Maintenance) By-law being a By-law to regulate and prescribe standards for the maintenance of private property and municipal boulevards within the City of Markham

WHEREAS Section 8 of the *Municipal Act, 2001, S.O. 2001, c. 25*, as amended (*"Municipal Act"*) provides that the powers of a municipality shall be interpreted broadly so as to confer broad authority on the municipality to govern its affairs as it considers appropriate and to enhance the municipality's ability to respond to municipal issues;

AND WHEREAS administrative amendments are required from time to time for enforcement purposes;

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

- (1) That the following clauses shall be added in the Preamble of Keep Markham Beautiful (Maintenance) By-law and shall be read as follows:

WHEREAS subsection 425 (1) of the *Municipal Act* authorizes a municipality to pass by-laws providing a Person who contravenes it is guilty of an offence and;

WHEREAS section 434.1 of the *Municipal Act* provides that a municipality may require a Person to pay an Administrative Penalty if the municipality is satisfied that a Person has failed to comply with a by-law of the municipality passed under the *Municipal Act*; and

WHEREAS section 434.2 (1) of the *Municipal Act* provides that an Administrative Penalty imposed by a municipality on a Person constitutes a debt of the Person to the municipality; and

WHEREAS subsection 436 (1) of the *Municipal Act* authorizes a municipality to pass by-laws providing that a municipality may enter on land at any reasonable time for the purpose of carrying out an inspection to determine whether or not a by-law, direction or order of the municipality is being complied with; and

WHEREAS section 444 of the *Municipal Act* authorizes a municipality to make an Order requiring the Person who contravened a by-law or who caused or permitted the contravention or the Owner or Occupier of the land on which the contravention occurred to discontinue the activity and any Person who

contravenes such Order is guilty of an offence; and

WHEREAS section 445 of the *Municipal Act* authorizes a municipality to make an Order requiring the Person who contravened the by-law or who caused or permitted the contravention or the Owner or Occupier of the land on which the contravention occurred to do the work to correct the contravention; and

WHEREAS section 446 of the *Municipal Act* authorizes a municipality to direct or require a Person to do a matter or thing and in default of it being done, the matter or thing shall be done at that Person's expense and the municipality may collect the costs from the Person required to do it by action or by adding the costs to the Tax Roll and collecting them in the same manner as municipal taxes;

(2) That Section 2.0 of Keep Markham Beautiful (Maintenance) By-law be Amended as follows:

(a) By adding to the definition of "Administrative Penalty":

"Administrative Penalty" means an administrative penalty established by the City's Administrative Monetary Penalty System By-law.

(b) By amending the definition of "Waste Materials":

"Waste Materials" shall mean any garbage, refuse, debris, litter, **Household Waste** and yard waste and without limiting the generality of the foregoing, shall include garbage, junk, tin cans, old or decayed lumber, discarded or inoperable machinery, including automobiles and parts, furniture, household fixtures, soil, rock, rubble, organic material or a combination of these and construction materials;

(3) That Section 4.0 of Keeping Markham Beautiful (Maintenance) By-law be amended as follows:

(a) By adding clause 4.16 after clause 4.15:

Every **Owner** shall remove dead, decayed, or trees deemed an unacceptable high risk, from their lands.

(4) That Section 5.0 of Keep Markham Beautiful (Maintenance) By-law be amended as follows:

(a) By adding clause 5.1 (g) after clause 5.1 (f):

No Person shall fail to comply with provisions as set out in Refuse By-Law 32-95, as amended time to time.

(5) That Section 6.0 of Keep Markham Beautiful (Maintenance) By-law be amended as follows:

- (a) By adding Section 6.7 “Rebuttable Presumption for Abutting Boulevard” clause after Section 6.6 Rebuttable Presumption:

Where dumping of any **Household Waste** or **Waste Material** on any grounds, yards or vacant lots within the City in contravention of this By-law is found, the **Owner** of the **Abutting Boulevard** shall be presumed to have dumped, placed, deposited or permitted to be dumped, placed or deposited such materials in contravention of this By-law; which presumption may be rebutted by evidence to the contrary, on a balance of probabilities.

- (6) That Section 20.0 shall be added after Section 19.0 of Keep Markham Beautiful (Maintenance) By-law and shall be read as follows:

- (a) By adding Section 20.0 ADMINISTRATIVE PENALTIES:
20.0 ADMINISTRATIVE PENALTIES

20.1 Instead of laying a charge under the *Provincial Offences Act* for a breach of any provision of this By-law, an Order, a **Work Order**, or any other order issued pursuant to this By-law, a **Municipal Law Enforcement Officer** may issue an **Administrative Penalty** to the Person who has contravened this By-law.

20.2 The **Municipal Law Enforcement Officer** has the discretion to either proceed by way of an **Administrative Penalty** or a charge laid under the Provincial Offences Act. If an **Administrative Penalty** is issued to a **Person** for the breach, no charge shall be laid against that same **Person** for the same breach.

20.3 The amount of the **Administrative Penalty** for a breach of a provision of this By-law, a **Work Order** or Order issued under this By-law is fixed asset out in the **AMPS By-law for Non-Parking Offences**, as amended, or any successor by-law.

20.4 An **Administrative Penalty** imposed on a **Person** pursuant to this By-law that is not paid within fifteen (15) days after the day it becomes due and payable, constitutes a debt of the **Person** to the **City** and may be added to a Tax Roll and collected in the same manner as municipal taxes.

20.5 A Person who is issued an Administrative Penalty shall be subject to the procedures as provided for in the City’s Administrative Monetary Penalty System By-law.

- (7) That Section **20.0 Collection of Unpaid Fines** of Keep Markham Beautiful (Maintenance) By-law shall be renumbered as **21.0 Collection of Unpaid Fines**;

- (8) That Section **21.0 Severability** of Keep Markham Beautiful (Maintenance)

By-law shall be renumbered as **22.0 Severability**;

- (9) That Section **22.0 Interpretation** of Keep Markham Beautiful (Maintenance) By-law shall be renumbered as **23.0 Interpretation**;
- (10) That Section **23.0 Repeal of By-Law** of Keep Markham Beautiful (Maintenance) By-law shall be renumbered as **24.0 Repeal of By-Law**;
- (11) That Section **24.0 Force and Effect** of Keep Markham Beautiful (Maintenance) By-law shall be renumbered as **25.0 Force and Effect**;

READ A FIRST, SECOND, AND THIRD TIME AND PASSED THIS 20TH DAY OF MARCH, 2024.

KIMBERLEY KITTERINGHAM
CITY CLERK

FRANK SCARPITTI
MAYOR