



BY-LAW 2012-234

Being a By-law to recover costs associated with the abatement and remediation of clandestine drug operations and other unsafe buildings

WHEREAS the *Municipal Act, 2001*, S.O. 2001 c. 25, as amended (the “*Municipal Act, 2001*”), requires that a local municipality ensure a building is inspected if notified by police that the building housed a clandestine drug operation and that the official conducting the inspection is required to take whatever actions they are authorized to take to make the building safe and otherwise protect the public;

AND WHEREAS these clandestine drug operations create a public safety hazard in that the occupants often undertake hazardous and illegal modifications to the electrical system, including bypassing Hydro Meters, which can lead to house fires, power outages and brownouts for surrounding buildings, theft of electricity, and hazardous conditions for future occupants due to mould and other building contaminants;

AND WHEREAS clandestine drug operations are occasionally found to have devices installed which are intended to kill or injure unexpected visitors, such as emergency response and inspection personnel;

AND WHEREAS police forces are responsible for investigating clandestine drug operations to abate such public safety hazards; for securing the property and removing any devices intended to kill or injure others, for seizing controlled substances as authorized by law; and for notifying the City and the electric utility company of the existence of these operations;

AND WHEREAS sections 9 and 11 of the *Municipal Act, 2001* permit a lower-tier municipality to regulate for certain matters for purposes related to health, safety and well-being of the inhabitants of the municipality;

AND WHEREAS section 128 of the *Municipal Act, 2001* permits a local municipality to regulate with respect to public nuisances, including matters that in the opinion of council are or could become or cause public nuisances;

AND WHEREAS the City is responsible to ensure any marijuana grow operations identified by a police force pursuant to sections 447.2 and 447.3 of the *Municipal Act, 2001*, and other unsafe buildings, are brought into a safe condition in order to protect the public;

AND WHEREAS paragraph 391(1)(a) of the *Municipal Act, 2001* permits a municipality to pass by-laws to impose fees or charges for services or activities done on behalf of the municipality;

AND WHEREAS paragraph 391(1)(b) of the *Municipal Act, 2001* permits a municipality to pass by-laws to impose fees or charges on any class of persons, for costs payable by it for services or activities provided by or done by any other local board, and the York Regional Police Services Board is a local board;

AND WHEREAS section 398 of the *Municipal Act, 2001* provides that fees and charges imposed by a municipality on a person constitute a debt of the person to the municipality, and may be added to the tax roll for the property and collected in the same manner as municipal taxes;

AND WHEREAS paragraph 425(1) of the *Municipal Act, 2001* permits a municipality to make it an offence for contravention of a by-law.

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

1. SHORT TITLE

- 1.1 This By-Law may be referred to as “The Unsafe Buildings Abatement By-law”.

2. DEFINITIONS

- 2.1 In this By-law:

“Clandestine Drug Operation” means an illegal operation where any substance listed in any of Schedules I to IV of the *Controlled Drugs and Substances Act* (Canada) can be obtained by any method or process, including but not limited to, a marijuana grow operation.

“Council” means the Council of The Corporation of the City of Markham.

“Chief Building Official” means the Chief Building Official for the City.

“Fire Chief” means the Fire Chief for the City.

“Hydro Meter” means a device used to measure the consumption of electricity.

“Manager of Bylaw Enforcement” means the Manger of By-law Enforcement of the City.

“City” means The Corporation of the City of Markham.

“Treasurer” means the Treasurer of the City of Markham.

“Unsafe Building” means a building that is or has been used or is intended to be used for a clandestine drug operation or any other building which has been determined by an inspector to be in an unsafe condition according to Section 15.9 of the *Building Code Act*.

**3. OPINION OF COUNCIL UNDER SECTION 128 OF THE
MUNICIPAL ACT, 2001**

- 3.1 Council is of the opinion that unsafe buildings, including clandestine drug operations create or cause dangers and health and safety risks and public nuisances to the inhabitants of the City.

4. APPOINTMENT OF INSPECTORS

- 4.1 Council may appoint inspectors for the purposes of this By-law and any member of the police, any employee of an electrical utility company, the Markham Fire & Emergency Services Department, Markham By-law Enforcement or the Markham Building Standards Department is an inspector for the purposes of this By-law.

5. ELIGIBLE COSTS

- 5.1 The cost of inspectors having to attend at unsafe buildings includes but is not limited to the following activities or services:

Police Services

- a) the assessment of the premises upon entry, and the detection and removal of hazardous chemicals and equipment to render the premises safe for entry by officers,
- b) the removal of all controlled substances and ancillary equipment used for the growth, production and manufacturing of illegal controlled substances, and
- c) security of the premises during the removal of hazardous materials and equipment and during entry by inspectors.

Electric Utility Services

- a) Activities associated with the disconnection or reconnection of Hydro Services

City of Markham Services

- a) The investigation and determination of any unsafe conditions as required by the *Municipal Act, 2001*,
- b) the provision of an environmental report on the building condition, or the assessment of such report,
- c) the removal, storage and disposal of all controlled substances and ancillary equipment used for their growth, production and manufacturing of illegal controlled substances,
- d) any matter concerning the investigation and mitigation of a public nuisance under the City's Property Standards By-law,
- e) inspections for the purpose of verifying that premises have been remediated and are not in an unsafe condition, and
- f) any matter concerning the investigation and mitigation of an unsafe building under the *Fire Code, Building Code Act* or a City by-law.

- 5.2 The costs payable due to the services undertaken by the police and the electric utility company shall be the amount payable on the invoice provided by those agencies.
- 5.3 The costs payable for City services shall be the amount in the City's fee by-laws, plus any third party costs, including but not necessarily limited to professional or specialist consulting services, contracting, equipment and supplies. An administrative fee of \$500 shall be payable where third party services are required in addition to any fees under the City's Fee By-law, in accordance with section 391 of the *Municipal Act, 2001*.

6. COLLECTION

- 6.1 The cost of the items described in Section 5 is a debt due to the City by the assessed owner of the premises.
- 6.2 In the event the costs in 5.1, 5.2 and 5.3 are not otherwise paid, the Treasurer shall add the costs, including interest, to the tax roll for the premises and collect them in the same manner as municipal taxes.
- 6.3 Any person who contravenes Sections 5 or 6 of this By-law is guilty of an offence, and upon conviction pursuant to the provisions of the *Provincial Offences Act*, is liable to the maximum fine of that Act.

7. FINAL COST AND COLLECTION DECISIONS

- 7.1 The Chief Building Official, Manager of By-law Enforcement or Fire Chief shall make a final determination of the costs payable for the City services, and may waive or amend all or part of the costs payable in specific circumstances, and that determination shall be final.

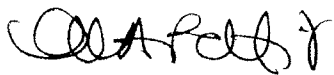
8. SEVERABILITY

- 8.1 Should any section of this By-law be declared invalid by a court of competent jurisdiction, it is the intent of the Council that such section shall be severed here from and the remainder of the By-law shall continue in full force and effect.

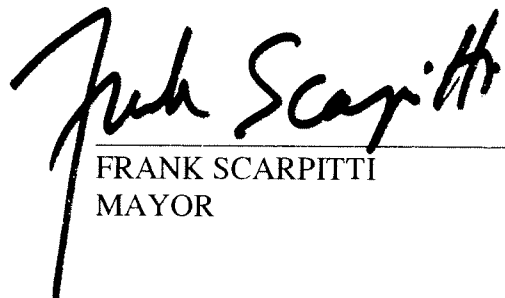
9. EFFECT

This By-law shall take effect and come into force upon its passing.

READ A FIRST, SECOND, AND THIRD TIME AND PASSED THIS
13TH DAY OF NOVEMBER, 2012.



MARTHA PETTIT
ACTING CITY CLERK



FRANK SCARPITTI
MAYOR