



**A By-law to Charge Fees for Services Provided by Fire and Emergency Services
for Extraordinary Emergency Expenses and Non Emergency Incidents**

WHEREAS section 8(1) of the *Municipal Act, 2001*, S.O. 2001 c.25, as amended, (the "*Municipal Act, 2001*") provides that the powers of a municipality under any Act shall be interpreted broadly so as to confer broad authority on municipalities to enable them to govern their affairs as they consider appropriate, and to enhance their ability to respond to municipal issues;

AND WHEREAS the *Fire Protection and Prevention Act, 1997*, S.O. 1997 c.4, as amended, (the "*Fire Protection and Prevention Act, 1997*") authorizes a municipality to establish a Fire Department to provide firefighting and fire protection services and for participating in an emergency fire services program;

AND WHEREAS The Corporation of the City of Markham has established a Fire Department being the Fire and Emergency Services Department of the Community Services Commission to deliver firefighting and related emergency services;

AND WHEREAS section 391 of the *Municipal Act, 2001*, authorizes a municipality by by-law to impose fees or charges on any class of persons for services or activities provided or done by or on behalf of the municipality.;

AND WHEREAS subsection 398(1) of the *Municipal Act, 2001*, states that fees and charges imposed by a municipality on a person constitute a debt of the person to the municipality;

AND WHEREAS subsection 398(2) of the *Municipal Act, 2001*, states that a municipality may add fees and charges to the tax roll of the property to which the public utility is supplied and collect them in the same manner as municipal taxes;

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

DEFINITIONS:

1. In this By-law,

- a) "City" means The Corporation of the City of Markham;
- b) "Fire and Emergency Services" means a fire department within the meaning of the *Fire Protection and Prevention Act, 1997*, and is deemed to include any member of the City's Fire and Emergency Services Department, and includes all City services related or incidental to the prevention, control, and suppression of fires, the protection of lives and property and emergency calls;
- c) "Property" means any public or private real property within the geographical boundaries of the City of Markham, including buildings, structures of any nature and kind in or upon such lands, but excludes real property owned by the Crown either federally or provincially;
- d) "Person" includes a corporation and its directors and officers unless the context otherwise requires;
- e) "Owner" means the registered owner of property, or any person, firm or corporation having control over or possession of the property or any portion thereof, including mortgagee in possession, receiver and manager, trustee and trustee in bankruptcy;
- f) "Fire Chief" means the person who is ultimately responsible to City Council for the delivery of fire protection services;
- g) "Deputy Fire Chief" means the person who has been appointed by City Council to act in the place of the Fire Chief of the fire department in his/her absence or in the case of a vacancy in the office.

EXTRAORDINARY EXPENSES

- 2. If Fire and Emergency Services responds to a fire or other emergency at a Property (including gas leaks and cut mains) and determines, or the Fire Chief or Deputy Fire Chief determines, that it is necessary to retain a private contractor, or rent special equipment, or use consumable materials other than water and medical supplies, in order to suppress or extinguish a fire, preserve property, carry out investigations or prevent a fire from spreading or otherwise control or eliminate an emergency or damage equipment owned by the City, the Owner shall be charged those expenses, plus applicable taxes.

NON EMERGENCY ELEVATOR INCIDENT RESPONSE

3. If Fire and Emergency Services attends at a Property in response to a malfunctioning and or inoperable elevator, the Owner shall be responsible to pay for the emergency call and the amount payable will be subject to the City of Markham Fee By-law 2002-276.

NON COMPLIANCE WITH SMOKE ALARM/CARBON MONOXIDE REQUIREMENTS

4. If Fire and Emergency Services attends at a residential Property, (single family dwelling or second suite), for any response or inspection and discovers that there is not a working Smoke Alarm on every level of the Property, and in accordance with City of Markham By-law 107-94, or at least one Carbon Monoxide Detector located on the sleeping level(s), the Fire and Emergency Service will provide the required combination smoke and carbon monoxide alarm(s) to bring the Property in compliance with the minimum requirements of the Ontario Fire Code (O. Reg. 213/07). The Owner will be invoiced by the City for the costs of all devices that were provided.

RECOVERY OF COSTS

5. Where the City, its employees or authorized agents have performed the work required to bring the Property into compliance with this By-law, all expenses incurred by the City in doing the work as well as any related fees, shall be deemed to be a debt to the City and may be collected by action or the costs may be added to the tax roll for the Property and collected in the same manner as taxes.

PENALTY

6. Every Person who contravenes any provision of this By-law is guilty of an offence and upon conviction is liable to a fine, and such other penalties, as provided for in the *Provincial Offences Act*, R.S.O. 1990, c. P.33, ("Provincial Offences Act") and the *Municipal Act, 2001*, as each may be amended from time to time.

COLLECTION OF UNPAID FINES

7. Pursuant to section 441.1 of the *Municipal Act, 2001*, the treasurer of a municipality may add any part of a fine for a commission of a provincial offence that is in default under section 69 of the *Provincial Offences Act* to the tax roll for any property in the local municipality of which all of the Owners are responsible for paying the fine and collect it in the same manner as municipal taxes.

SEVERABILITY

8. In the event of a particular provision is declared illegal or unenforceable by courts and tribunals, the remaining provisions of this By-law shall remain valid and enforceable to the fullest extent permitted by the law.

FORCE AND EFFECT

9. That this By-law shall come into force and effect on the date of its final passing.

READ A FIRST, SECOND AND THIRD TIME AND PASSED THIS
TH DAY OF , 2015.

KIMBERLY KITTINGHAM
CITY CLERK

FRANK SCARPITTI
MAYOR

TOWN OF MARKHAM
ONTARIO



INSTALLATION OF SMOKE ALARMS
BY-LAW NO. 107-94

This By-law is printed under and
by authority of the Council of
the Town of Markham

(Consolidated for convenience only
to 5 August, 2003)



THE CORPORATION OF THE TOWN OF MARKHAM
BY-LAW NO. 107-94

A BY-LAW TO REQUIRE THE
INSTALLATION OF SMOKE ALARMS
IN RESIDENTIAL OCCUPANCIES

WHEREAS Section 210, paragraph 44 of the Municipal Act, R.S.O. 1990, c.M 45 ("The Act") provides that a municipality is authorized to pass a by-law for requiring buildings and yards to be put in a safe condition to guard against fire or other dangerous risk or accident;

AND WHEREAS Section 210, paragraph 49 of the Act provides that a municipality is authorized to make such other regulations for preventing fires and the spread of fires as Council considers necessary;

AND WHEREAS the Council for the Corporation of the Town of Markham considers it necessary in order to prevent the spread of fires to require residential occupancies to install and maintain smoke alarms;

AND WHEREAS Section 210 paragraph 46 of the Act provides that a municipality may appoint officers to enter at all reasonable times upon property in order to ascertain whether the by-law is obeyed and to enforce or carry into effect the by-law;

NOW THEREFORE, the Council of the Corporation of the Town of Markham enacts as follows:

1. Definitions

In this by-law,

- (a) "Basement" means any storey below the first storey;
- (b) "Dwelling Unit" means a room or suite of rooms operated as a housekeeping unit that is used or intended to be used as a domicile by one or more persons and that may contain cooking, eating, living, sleeping, and sanitary facilities;

- (c) "Fire Chief" means the Chief of the Fire Department of the Town;
- (d) "Fire Prevention Officer" means a member of the Fire Prevention Division of the Fire Department of the Town and includes the Fire Chief and any other member of the Fire Department designated by the Fire Chief;
- (e) "Occupant" means any person, firm or corporation residing in a dwelling unit;
- (f) "Owner" includes the registered owner and any person, firm, or corporation managing or receiving rent for a dwelling unit, whether on his own account or as an agent, trustee or representative of the owner, or any other person who so receives the rent if such dwelling unit is leased and includes an owner, occupier, or any person to whom rent is payable;
- (g) "Residential Occupancy" means the occupancy or use of a building or part thereof by persons for whom sleeping accommodation is provided but who are not harboured or detained to receive medical care or treatment or who are not involuntarily detained;
- (h) "Smoke alarm" means a battery or electrically powered combined smoke detection device and audible alarm device that:
 - (i) is designed to sound an alarm within a room or suite in which it is located where there is smoke within a room or suite;
 - (ii) is equipped with an indicator which provides a readily visible or audible indication that the device is in operating condition; and
 - (iii) has been approved by the Underwriters' Laboratories of Canada and, where electrically powered, also by the Canadian Standards Association.
- (i) "Storey" means that portion of a building that is situated between the floor and the ceiling above it;
- (j) "Town" means the Corporation of the Town of Markham.

2. Application

The provisions of this by-law do not apply to matters governed by provincial legislation, including the Fire Protection and Prevention Act,

1997 and the Ontario Fire Code (Ontario Regulation 388/97) and all amendments thereto and regulations thereunder, and the provisions of this by-law shall be construed accordingly.

(Amended by By-law Number 186-2000)

3. Installation of Smoke Alarms

Every owner of a dwelling unit shall install or cause to be installed the required number of smoke alarms at each storey of the dwelling unit(s) including the basement, in accordance with the provisions of section 4 of this by-law.

4. Smoke alarms shall be installed on or near the ceiling in accordance with the manufacturer's instructions and in conformance with the Canadian Electrical Code and shall be located:

- (a) on each storey where sleeping areas are located,
 - (i) between each sleeping area and the remainder of the dwelling unit; or
 - (ii) in the hallway, where a sleeping area is served by a hallway belonging to the dwelling unit; and
- (b) in the path of exit travel on any storey not containing a sleeping area.

5. Electrically Powered Smoke Alarms

- (1) Every installed electrically powered smoke alarm shall be equipped with visual indication that it is in operating condition.
- (2) No installed electrically powered smoke alarm shall have a switch between the smoke alarm and the power distribution panel.
- (3) Every installed electrically powered smoke alarm shall be permanently mounted on a standard outlet box on the ceiling or on the walls between six (6) inches and twelve (12) inches below the ceiling and in accordance with section 5.

6. Maintenance of Smoke Alarms

Every owner shall supply a copy of the manufacturer's maintenance instructions to the occupant(s) of the dwelling unit.

7. The occupant(s) of a dwelling unit shall maintain the smoke alarm(s) in operating condition at all times in accordance with the manufacturer's maintenance instructions.

8. Penalty

Every person who contravenes any provision of this by-law is guilty of an offence. Pursuant to the provisions of the Provincial Offences Act, R.S.O. 1990, c.P. 33, upon conviction, a person is liable to a fine of not more than \$5,000.00 exclusive of costs.

9. Repeal

Town of Markham By-law No. 220-89 is hereby repealed.

10. Short Title

The short title of this by-law is "The Smoke Alarm By-law".

READ A FIRST AND SECOND TIME THIS 14TH DAY OF JUNE, 1994

READ A THIRD TIME AND PASSED THIS 14TH DAY OF JUNE, 1994

FRANK SCARPITTI, MAYOR

BOB PANIZZA, CLERK

SCHEDULE "A"

TO BY-LAW NO. 107-94

MAINTENANCE OF SMOKE ALARMS

1. Manufacturer's instructions necessary to describe the maintenance, care and testing required for smoke alarms to ensure continuing satisfactory performance should be maintained in a location where they will be readily available to all occupants for reference.
2. The following are guidelines in the use and testing of smoke alarms:
 - (a) Vacuum dust from the smoke alarm at least every six (6) months.
 - (b) On battery powered units, check to see if the battery is in place, connected, and not corroded. Replace batteries with the type recommended by the smoke alarm manufacturer. (A warning sound should indicate low battery condition).
 - (c) Test each smoke alarm monthly by introducing smoke into the unit, from burning incense or a smouldering piece of string.
 - (d) A test button on the unit makes provision for testing the electrical circuit and when depressed should cause the audible alarm to sound.