



BY-LAW 2012-

A BY-LAW TO REGULATE WATER METERS

A By-law to enact rules and regulations for the installation, repair, maintenance, and access to Water Meters and related appurtenances within the serviced area of The Corporation of the City of Markham.

WHEREAS The Corporation of the City of Markham (hereinafter referred to as the “City”) is a lower-tier municipality within the Regional Municipality of York in the Province of Ontario;

AND WHEREAS subsection 11(3) of the *Municipal Act, 2001*, S.O. 2001 c. 25, as amended (the “*Municipal Act*”), states that the City may pass by-laws respecting public utilities including systems that distribute Drinking Water to the public;

AND WHEREAS the City has certain responsibilities for the distribution of Drinking Water within the jurisdiction of the City of Markham;

AND WHEREAS the City is deemed to be the “water purveyor” as defined in subsection 1.4.1.2(1)(b) of the Ontario Building Code;

AND WHEREAS Part 7 of the Ontario Building Code, as amended, authorizes a municipality to regulate the connection of individual water services to a municipal potable water works;

AND WHEREAS subsection 7.6.1.3 (5) of the Ontario Building Code states that where the water supply is to be metered, the installation of the meter, including the piping that is part of the meter installation and the valving arrangement for the meter installation, shall be according to the water purveyor's requirements;

AND WHEREAS subsection 80(1) of the *Municipal Act, 2001*, S.O. c. 25, states that a municipality may, at reasonable times, enter on land to which it supplies a public utility,

- (a) to inspect, repair, alter or disconnect the service pipe or wire, machinery, equipment and other works used to supply the public utility; or
- (b) to inspect, install, repair, replace or alter a public utility meter.

AND WHEREAS subsection 391(1) of the *Municipal Act, 2001*, S.O. c. 25, states that a municipality may pass by-laws imposing fees or charges on persons for services or activities provided or done by or on behalf of it;

AND WHEREAS subsection 398(1) of the *Municipal Act, 2001*, S.O. c. 25, 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*, S.O. c. 25, 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 HEREBY ENACTS AS FOLLOWS:

The Short Title for this By-law shall be “Water Meter By-law”

1. DEFINITIONS

1.0. For the purpose of this By-law, the following definitions and interpretations shall govern:

“Account” means the record of Water consumption and all fees and charges relating to a Property;

“Advanced Metering Infrastructure (AMI)” means all aspects related to collection, transmission, storage and monitoring of consumption, diagnostic and status data from metering devices by an automatic two-way metering infrastructure including the related equipment, software and hardware as may be adopted by the City for the purposes of billing, data analyzing and remote utility management;

“Applicable Law” means any applicable federal, provincial or municipal laws, statutes, by-laws, rules, regulations, orders, directives and codes including the Ontario Building Code and Fire Code as may be amended from time to time;

“Applicant” means any Person who makes an application under this By-law;

“Automatic Meter Reading (AMR)” means all aspects related to collection, transmission and storage of consumption data from metering devices by an automatic system including the related equipment, software and hardware as may be adopted by the City for the purposes of billing and data analyzing;

“AWWA Standards” means the standards adopted by the American Water Works Association, as amended from time to time;

“Back Charges” means additional charges made by the City to correct deficiencies in an Account, and it may refer to stopped Water Meter, illegal connections, Water Meter in by-pass, tampered Water Meter, open by-pass valve, Water Meter Reversal, incorrect Water Meter conversion multiplier, non-sewer charges, and other applicable situations which may cause the City to lose water sale revenue because of improper use of Water and Waterworks System;

“Backflow” means the flowing back of or reversal of the normal direction of flow of water, as defined by the Ontario Building Code, as amended;

“Backflow Preventer” means a device that prevents Backflow in a water distribution system, as defined by the Ontario Building Code;

“Building” means as defined by subsection 1(1) of the *Building Code Act*;

“Business Day” means any working day, Monday to Friday inclusive, but excludes public holidays as defined in Part I of the *Employment Standards Act, 2000*, S.O. c.41;

“City” means The Corporation of the City of Markham and includes its employees, municipal law enforcement officers and agents;

“City Standards and Specifications” means the City’s current Material Specifications for Watermains and Appurtenances, Engineering Design Criteria and Standard Drawings, Standard Construction Specifications and Drawings for Sewers and Watermains, as may be amended from time to time or any other document replacing same;

“Consumer” means any or all of the Owner, Occupier, builder or developer of Property which is serviced by, connected to or uses the Municipal Drinking Water System;

“Continuing Offence” means a Person can be charged with a separate offence for each day on which the offence was committed or continued;

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

“Drinking Water” means as defined by subsection 2(1) of the *Safe Drinking Water Act*.

“Dwelling” means “Dwelling Unit” as defined by subsection 1.4.1.2 of the Ontario Building Code;

“Fee By-law” means a City by-law to impose fees or charges for services or activities provided or done by the City, as may be amended from time to time;

“ICI” means industrial, commercial and institutional;

“Infill home” means the use of land within a built-up area for further housing development, especially as part of a community redevelopment or growth management program or as part of smart growth;

“Irrigation System” means fixed equipment, which includes sprinkler heads, piping and other components that are used primarily to apply Water to vegetation;

“Municipal Drinking Water System” means municipal drinking-water system as defined by subsection 2(1) of the *Safe Drinking Water Act*;

“Occupancy Certificate” means a document issued by the City certifying a building's compliance with Ontario Building Code and other applicable laws, and indicating it to be in a condition suitable for occupancy;

“Occupier” means a Person residing on or in a Property; a Person entitled to the possession of the Property if there is no other Person residing on or in the Property; and a tenant or leaseholder; and, where that Person is a corporation, shall include the officers, directors and shareholders of that corporation. An Occupier includes an occupant;

“Ontario Building Code” means O. Reg. 350/06, of the *Building Code Act, 1992*, S.O. 1992, c.23, as amended (the “*Building Code Act*”) or any successor thereof;

“Ontario Fire Code” means O. Reg. 388/97 of the *Fire Protection and Prevention Act, 1997*, S.O. c.4, as amended or any successor thereof;

“Owner” means a Person who has any right, title, estate, or interest in a Property, other than that of only an occupant and, where that Person is a corporation, shall include the officers, directors and shareholders of that corporation, and shall include any Person with authority or power over or control of that Property on the behalf of an Owner. An Owner includes a developer;

“Person” means an individual, sole proprietorship, partnership, municipality, unincorporated association, unincorporated organization, corporation, trustee, heir, executor, administrator or other legal representative, Owner and Occupier of a Property, and includes an agent or employee of any of them;

“Plumbing” means a drainage system, a venting system and a water system or parts thereof as defined in subsection 1(1) of the *Building Code Act*;

“Private Fire Service Main” means pipes, fittings and appurtenances from the Water Service Connection conveying water for fire protection or suppression only to all points in a fire protection or suppression system;

“Private Meter” means a Water Meter which is not owned, serviced or maintained by the City;

“Private Water Service Pipe” means the pipe and fittings which convey Water from the Water Service Connection to a Water Meter, or to the point where the pipe and fittings connected to the Water Service Connection enters a Building or structure if there is no Water Meter;

“Private Water System” means an assembly of pipes, fittings, valves and appurtenances that convey Water from the Private Water Service Pipe to Water supply outlets, fixtures, Plumbing appliances, devices, and appurtenances and all other points downstream of the Street Line or downstream of the point where the Private Water Service Pipe enters a Building or structure if there is no Water Meter;

“Property” means a house, Building, structure, or any part of a house, Building, structure, lot or part of a lot which has a unique municipal address, adjacent to the Municipal Drinking Water System;

“Remote Readout Unit” means any device which is used to record or transmit the meter register reading of a Water Meter whether or not it is installed at a separate location from the Water Meter but does not include the Water Meter register;

“Renovated Building” means any Building or structure where the Plumbing or piping around or adjacent to a Water Meter is changed or altered after the Water Meter is installed;

“Road Allowance” means any right of way for the purpose of a road dedicated to the City or Regional Municipality of York;

“Sprinkler Meter” means any Water Meter which is installed separately for the purpose of metering water used by irrigation systems;

“Street Line” means the boundary of a Property adjoining a Road Allowance;

“Tax Assessment Roll” means public record of the assessed value of property in a taxing jurisdiction;

“Temporary Water Supply Connection” means a water supply pipe which is installed for a specific short term purpose;

“Water” means Drinking Water;

“Water Meter” means the meter read, serviced, maintained or supplied by the City to measure the quantity of Water consumed at, in or upon a Property;

“Water Meter Chamber” means the underground structure housing a Water Meter which is located within three (3) metres of the Street Line of the Owner’s Property;

“Water Rates” means the rates set out in the Fee By-law;

“Water Service Box” means the vertical pipe and cap installed over the Water Shut off Valve and stem on the Water Service Connection;

“Water Service Connection” means the pipes, fittings and appurtenances used for the purpose of supplying any Property in the City of Markham with Water from the Municipal Drinking Water System and situated between the Street Line and the watermain;

“Water Shut off Valve” means the valve on the Water Service Connection owned and used by the City to shut off or turn on the Water supply from the Municipal Drinking Water System to any Properties;

“Waterworks System” means the Municipal Drinking Water System which is owned and operated by the City licensed pursuant to the *Safe Drinking Water Act*;

“Waterworks User Fees” means waterworks fees, charges and rates as set out in the Fee By-law, except Water Rates;

“Work” means all activities related to Water Meter inspection, reading, testing, repair, maintenance, alteration, disconnection, removal, replacement, relocation, sealing, and all miscellaneous work.

2. APPLICATION OF BY-LAW

2.0. This By-law shall apply to:

2.0.0 Every Person using or drawing Water from the Waterworks System;

2.0.1 The Owner or Occupier of every Property upon which Water is used, unless the Water being used is not supplied by the Waterworks System; and

2.0.2 All Properties with a connection to the Waterworks System whether metered or not, whether the connection is permanent or temporary.

3. ADMINISTRATION AND ENFORCEMENT

3.0. The City shall be responsible for reading Water Meters and for the accounting, billing and collection of Waterworks User Fees and Water Rates charged in accordance with the Fee By-law.

3.0.0 The Water Rates, Waterworks User Fees and Back Charges shall be charged in accordance with the Fee By-law.

3.0.1 Consumers shall pay Water Rates on the basis of their consumption of Water billed in accordance with the Water Rates as set out in the Fee By-law.

3.1. The City shall be responsible for the administration and enforcement of this By-law, including prescribing the content of any forms or other documents required under this By-law from time to time.

3.2. Powers of Entry

The City may enter onto land at any reasonable time for the purpose of carrying out Work to inspect, read, test, repair, maintain, alter, disconnect, remove, replace or seal a Water Meter which has been installed to determine whether or not the following are being complied with:

3.2.0 The provisions of this By-law;

3.2.1 An order issued under this By-law; or

3.2.2 An order made under section 431 of the *Municipal Act*.

The City may undertake Work pursuant to an order issued under section 438 of the *Municipal Act*.

The City's power of entry may be exercised by an employee, officer, agent or contractor of the City or by a member of the York Regional Police force, as well as by any person under his or her direction.

3.3. The City may, in accordance with the requirements of this By-law, enter upon a Property to which Water is supplied by the City to undertake, among other things:

3.3.0 To read, inspect, install, repair, replace, maintain or alter or remove a Water Meter;

3.3.1 To shut off or reduce the supply of Water;

3.4. Service of an order shall be hand delivered or delivered through regular mail to the address of the Owner shown on the most current "Tax Assessment Roll". Where service is made by regular mail, it shall be deemed to have been received by the Owner on the fifth Business Day after the date of mailing.

3.5. Wherever this By-law directs or requires any work or thing to be done, in default of it being done by the Person directed to do it, such work may be done by the City at the expense of the Person. Under this By-law pursuant to subsection 398 (2) of the *Municipal Act*, the City may recover all expenses incurred in doing the work by action or by adding the costs to the tax roll and collecting them in the same manner as taxes, and any unpaid outstanding fines will also be added to the tax roll and be collected in the same manner as taxes.

3.6. No Person shall hinder or obstruct, or attempt to hinder or obstruct an employee, officer, agent or contractor of the City or other Person so authorized by the City who is performing a duty or exercising a power under this By-law pursuant to section 426 of the *Municipal Act*.

3.7. When the City has provided advance notice to exercise a power of entry in accordance with the requirements of this By-law and the Owner or Occupier, within the time set out in the City notice, has not provided access, the Owner will be charged a "missed appointment or service refusal" fee as set out in the Fee By-law to compensate the City for costs incurred in attempting access and for each subsequent attempt.

4. WATER USE AND RECEIPT OF WATER

4.0. No Person shall sell or dispose, or permit the sale or disposal of Water without the prior written permission of the City.

4.1. No Person shall obtain Water, without making an application to the City and paying the appropriate charges, fees or rates for it, unless they have the prior written approval of the City.

5. WATER METER

5.0. METER INSTALLATION

5.0.0 WATER TO BE METERED

- (a) No Person, except authorized City personnel acting in the course of their duties, or authorized agents or contractors expressly acting within the scope of their contract, shall use or permit the use of Water that has not passed through a Water Meter.
- (b) All Owners shall have a Water Meter installed and in use at the Owner's Property where such Property is supplied with Water by the City.
- (c) 5.0.0 (a) and (b) shall not apply where:
 - i. Water is used by the City for firefighting;
 - ii. Water is used by Consumers at a Property serviced by the City on a flat rate water charge as of the date of the coming into force of this By-law;
 - iii. Water is used for construction approved by the City; or

- iv. The use of un-metered Water is otherwise permitted by this By-law.
- (d) All Water Service Connections to the Municipal Drinking Water System are required to be metered. Any Owner in a residential unit who does not have a Water Meter installed shall pay the City a flat-rate water charge as set out in the Fee By-law.
- (e) Any existing Property serviced by the Municipal Drinking Water System, on a flat-rate water charge, is required to have a new Water Meter installed within one (1) year from the day the flat rate charges started or the enactment of this By-law, whichever is earlier.
- (f) If two or more Water Service Connections supply Water to a Property, each Water Service Connection shall be separately metered.

5.0.1 INSTALLATION OF RESIDENTIAL WATER METER

- (a) All Water Meter installed must be inspected and sealed by the City prior to turning on the supply of Water.
- (b) The City reserves the right to shut off the supply of water if the Property does not have a Water Meter once an Occupancy Certificate has been issued.
- (c) Notwithstanding the issuance of an Occupancy Certificate, no Person shall occupy or permit occupancy of any Buildings or part thereof for which the Occupancy Certificate was issued prior to the installation of the Water Meter. In the event that a Building or part thereof is occupied contrary to the above, the Owner shall pay the City a flat-rate water charge as set out in the Fee By-law from the time of issuance of Occupancy Certificate to the time of new Water Meter installation. In the case of Infill Home, the City may install the Water Meter, as the City considers appropriate, in which event the Owner shall pay to the City the full cost of the work plus overhead and applicable tax.
- (d) In the case of a Property subject to meter replacement or installation in accordance with the City's meter maintenance program or AMR/AMI program, the City may install such Water Meter, conduit and wire for Remote Readout Unit and AMR/AMI equipment at no expense to the Owner.

5.0.2 INSTALLATION OF ICI WATER METER

- (a) The Owner or his authorized agents shall install a Water Meter in accordance with this By-law on his Property in a secure and accessible location within five (5) Business Days prior to occupancy.
- (b) The Owner or his authorized agents shall install the Plumbing and appurtenances related to the Water Meter, including conduit for wiring as per the City Standards and Specifications at the sole expense of the Owner.
- (c) Notwithstanding any other provisions of this By-law, the wire and the Remote Readout Unit or AMR/AMI equipment shall be installed by the City prior to the Owner's occupancy of a new or Renovated Building or part thereof.
- (d) Except as otherwise provided for in this By-law, the Water supply to a Property will not be turned on until the City has inspected and sealed the Water Meter installed at the Property as set out in this By-law.
- (e) In the event that Water supply to a Property has been turned on prior to the City inspection and sealing of the Water Meter at the Property, the City reserves the right to shut off the supply of Water to the Property.
- (f) To allow for proper flow of Water or maintenance of equipment or both, the City may require an Owner to install the proper valving arrangement in respect of the supply of Water to the Property in accordance with the City Standards and Specifications at the sole expense of the Owner.

- (g) In the case of a Property subject to meter replacement or installation in accordance with the City's meter maintenance program or AMR/AMI program, the City may install such Water Meter, conduit and wire for Remote Readout Unit and AMR/AMI equipment at no expense to the Owner.

5.0.3 SUPPLY OF WATER METER

All Water Meters, including Remote Readout Unit and AMR/AMI equipment, that register Water supplied and billed by the City or authorized agents, are owned by the City. For the City's billing purpose, Water Meter for new development shall be supplied by the City at the Owner's cost, as per the City Standards and Specifications.

5.0.4 APPLICATION FOR WATER METER

This section only applies to Infill Home and ICI Water Meter application. An Owner/Applicant shall submit a Water Meter application on the prescribed form to the City for a new or Renovated Building, or for changing Water Meter size in an existing Building.

- (a) For ICI Water Meter application only, the Owner/Applicant shall provide the City with calculated peak flow rate, to be supplied and certified by a professional engineer, to pass through the Water Service Connection, type of business, and number of occupants or employees.
- (b) The Owner/Applicant shall be responsible for the completeness and accuracy of all information furnished with the application, and shall sign the application.
- (c) The application fee shall be at the sole expense of the Owner and paid at the time of submission of application.
- (d) All applicable Water Meter fees and charges in the amounts as set out in the Fee By-law must be received prior to the application being processed.

5.0.5 SIZE OF WATER METER

- (a) Based on the information supplied by the Owner/Applicant in his application as required by this By-law, the City will determine the final size of the Water Meter for the Property.
- (b) Unless approved by the City, the size of residential Water Meter shall not be in excess of twenty-five (25) mm (one (1) inch) in diameter.

5.0.6 WATER METER LOSS OR DAMAGE

- (a) Every Owner shall be responsible for Water Meter lost or damaged by the carelessness or neglect of any Person other than the City, including damage from freezing.
- (b) The Owner shall pay the City the cost of making the necessary repair or replacement to such Water Meter.

5.0.7 NOTIFICATION BY OWNER

The Owner shall immediately notify the City that the Property is ready for the installation of a Water Meter, upon the approval of the City's Plumbing inspection where a Water Meter is required to be installed.

5.0.8 PROVISION FOR INSTALLATION OF A WATER METER

The Owner shall ensure that provision is made in the piping system of all existing, new and Renovated Buildings or structures for the installation of a Water Meter of the same diameter as the Private Water Service Pipe in accordance with the City Standards and Specifications.

5.0.9 WATER METER BY-PASS PIPING

- (a) The Owner shall install by-pass piping for Water Meter sizes greater than twenty-five (25) mm (one (1) inch) in diameter, and maintain same in

good working order as per the City Standards and Specifications at the sole cost of the Owner.

- (b) The City shall seal the by-pass valve, in the closed position upon notification of its installation by the Owner.
- (c) Where the by-pass pipe or valves of a Property are not in accordance with the City Standards and Specifications, the City may order the Owner:
 - i. To install a new or replace the Water Meter by-pass pipe or valves at the sole expense of the Owner; or
 - ii. To remove any defective pipe or valves and install a new pipe or valves.
- (d) An Owner shall comply with an order made under this By-law regarding by-pass piping within thirty (30) days from receipt of the order from the City.
- (e) If an Owner fails to:
 - i. Supply, install or maintain the by-pass pipe and valves in proper working order in accordance with 5.0.9 (a); or
 - ii. Comply with an order of the City made pursuant to this By-law within the time required,

The City may supply, install, repair, replace or otherwise maintain the by-pass pipe and valves, as the City considers appropriate, in which event the Owner shall pay to the City the full cost of the work and the inspection fee for each attendance at the Property, including the cost incurred by the City to perform the inspection plus overhead and applicable tax.

5.0.10 WATER METER CHAMBER

- (a) If the City is of the opinion that a Water Meter cannot be conveniently located inside a Building or structure in accordance with the City Standards and Specifications or where the City does not have access to the Water Meter, the City may require the Water Meter to be installed in a Water Meter Chamber constructed by the Owner or his authorized agents in accordance with the City Standards and Specifications, at the sole expense of the Owner.
- (b) Pursuant to 5.0.10 (a), the Water Meter Chamber shall be placed in a location approved by the City, prior to construction.
- (c) No Person shall obstruct or permit the obstruction of a Water Meter Chamber and associated valves.
- (d) No Person shall place shrubs, trees, or other landscaping within one and one half (1.5) metres of the outer perimeter of a Water Meter Chamber.
- (e) The Owner shall keep all landscaping on his Property, cut back and clear of a Water Meter Chamber and the access to the Water Meter Chamber.
- (f) To facilitate the reading of a Water Meter, the City may require the Owner to:
 - i. Prepare the Water Meter Chamber cover for the installation of a chamber cover type Remote Readout Unit in accordance with the City Standards and Specifications at the sole expense of the Owner.
 - ii. If the City determines a chamber cover type Remote Readout Unit device is not appropriate for a location, the City may:
 - 1) Determine the appropriate type and location of the Remote Readout Unit and the Owner shall install such unit at the sole expense of the Owner according to the City Standards and Specifications.
 - 2) Require the Owner to install a mounting post and plate to accommodate the Remote Readout Unit at the sole expense of the Owner.

5.1. WATER METER INSPECTION

5.1.0 WATER METER INSPECTION AND SEALING

Every Water Meter on a Property shall be inspected and sealed by the City at or about the time of installation or relocation.

5.1.1 WATER METER ACCESS

- (a) The Owner or Occupier shall, within the time set out in the City notice, permit the City to have free, clear and unobstructed access to the Water Meter. The Water Meter is to be installed in or on that Property where it is convenient for the City to inspect, test, read, repair, maintain, alter, disconnect, remove, replace or seal a Water Meter which has been installed. The location of a Water Meter shall be accessible without the use of a portable ladder or the necessity of climbing over or removal of an obstacle.
- (b) When requested by the City, an Owner or Occupier, as the case may be, shall remove any insulation or other material from, on or around a Water Meter in order to provide the City with full, unobstructed access to the Water Meter. Any replacement of such material shall be done by the Owner at his sole expense in accordance with the City Standards and Specifications and all Applicable Law.
 - i. If the Owner does not carry out the work as required by the City within thirty (30) days from receipt of the order from the City, then The City reserves the right to remove any insulation or other material blocking the Water Meter and all necessary work. The City shall not be liable for any loss or damage to the Owner's Property or loss or damage otherwise suffered by the Owner arising from such work.
 - ii. The Owner shall pay all costs incurred by the City as a result of the Owner failing to remove the insulation or other material blocking the Water Meter. The Owner shall also pay the inspection fee, if any, for each attendance at the Property by the City, including the cost incurred by the City to perform the inspection plus overhead and applicable tax.
- (c) As part of an inspection, the City shall at all times be permitted to take photographs, including digital images, of any Plumbing, Water Meter, Private Meter, by-pass pipe and valves, inlet and outlet valves, Backflow Preventer, Private Water System, Private Water Service Pipe, Private Fire Service Main or Water Meter Chamber.
- (d) Water Meter shall be placed in such location as per the City Standards and Specifications.
- (e) The Owner or the Occupier shall, within the time set out in the City notice, permit the City to inspect the Private Water Service Pipe, Private Water System, Private Fire Service Main, or the inlet, outlet, flushing, drainage and by-pass valves on piping adjacent to or around the Water Meter.
- (f) The Owner or the Occupier with a Water Meter not equipped with Remote Readout Unit, within the time set out in the City notice, shall permit the City to have free, clear and unobstructed access to the Water Meter for visual Water Meter reading a minimum of two (2) times per calendar year.

5.1.2 WATER METER INTERFERENCE PROHIBITED

- (a) No Person, except authorized by the City, shall reverse, tamper, un-seal, or alter a Water Meter in any way which may interfere with the proper registration of the quantity of Water that passes through a Water Meter or ought to pass through a Water Meter.
- (b) No Person, except authorized by the City, shall permit, perform or cause to permit or to have performed tampering, un-sealing, reversal, and

alteration of a Water Meter in any way which may interfere with the proper registration of the quantity of Water that passes through a Water Meter or ought to pass through a Water Meter.

- (c) No Person shall connect any pipes or other appurtenances to direct flow from a Private Water Service Pipe upstream of a Water Meter or the by-pass pipe and valves.
- (d) If the City determines that a seal on a by-pass and/or a Water Meter has been tampered with or is broken, then the City will reset the by-pass valves in the closed position and re-seal the Water Meter.

5.2. WATER METER MAINTENANCE

5.2.0 MAINTENANCE OF WATER METER APPURTENANCES AND PIPING

- (a) The Owner shall ensure that all valves are fitted with proper handles and that all valves to, from and around the Water Meter are installed and properly maintained in accordance with the City Standards and Specifications.
- (b) The Owner shall maintain all Plumbing including all piping, fittings and valves to and from and around a Water Meter in good working order and shall replace and repair them as necessary in accordance with the City Standards and Specifications. The Owner is not responsible for maintaining the Water Meter and/or the associated strainer.
- (c) If the City determines that the condition of a Private Water Service Pipe, Private Fire Service Main, or Private Water System or valves on piping adjacent to the Water Meter is such that the Water Meter cannot be properly or conveniently tested, calibrated or repaired in place or removed for the purpose of testing, replacing or repairing, the Owner shall, at his sole expense, repair or, if necessary, replace the Private Water Service Pipe, Private Fire Service Main, or Private Water System or valves, as the case may be, to enable the City to test, calibrate, repair or remove the Water Meter.
- (d) Where the City makes the determination in accordance with 5.2.0(c), the City may issue an order to the Owner to repair or replace the Private Water Service Pipe or Private Water System or valves, as the case may be, within thirty (30) days from the receipt of such order, at the sole expense of the Owner. The Owner shall obtain a building permit from the City prior to the repair or replacement of the Private Water Service Pipe or Private Water System.
- (e) If the Owner or his authorized agents does not carry out the work as required in an order under 5.2.0 (d), the City reserves the right to carry out the work and shut off the Water supply to the Property during the removal, replacement, repair, testing and calibration of the Water Meter. The City is not liable for any loss or damage to the Owner's Property or loss or damage otherwise suffered by the Owner arising from such work or the shut off of the Water supply.
- (f) The Owner shall pay all costs incurred by the City for carrying out the work as required under 5.2.0 (e), as a result of the Owner failing to make the necessary repair or replacement. The Owner shall also pay the inspection fee for each attendance at the Property made by the City, including the cost incurred by the City to perform the inspection plus overhead and applicable tax.

5.2.1 MAINTENANCE OF CHAMBERS

- (a) This section applies to all chambers including Water Meter Chambers and chambers for Sprinkler Meters if installed.
- (b) The Owner shall be responsible for maintaining, repairing and replacing any chamber, and for keeping it in a safe condition.
- (c) The Owner shall remove and dispose of all solid and liquid debris, waste and other materials which are non-essential to the proper functioning of the Water Meter or Sprinkler Meter and which may be hazardous, toxic,

combustible or explosive in nature, both inside and above a chamber. The removal and disposal of such material is subject to all Applicable Law.

- (d) At the request by a City notice and within the time set out in the City notice, the Owner shall provide the City, with access to any chamber, to permit the City to inspect, maintain, repair, replace or read the Water Meter or Sprinkler Meter.
- (e) Pursuant to 5.2.1(d), the Owner shall ensure that all solid and liquid material is removed from the chamber to allow access. If the Owner is unable to remove material from the chamber, within the time set out in the notice, the Owner shall notify the City no less than forty-eight (48) hours before the scheduled inspection or other purpose for which the access is required. In addition, the Owner shall at the same time, advise the City of a date and time, no more than five (5) Business Days later, when access will be provided.
- (f) If the Owner fails to provide the City with access to a chamber in accordance with 5.2.1 (d), or the required notice in 5.2.1 (e), the Owner shall pay the inspection fee for each subsequent attendance at the Property made by the City, including the cost incurred by the City to perform the inspection plus overhead and applicable tax.

5.2.2 WATER METER ACCURACY

- (a) Under this By-law, the testing, flow rates and procedures used to determine Water Meter (all types and sizes) accuracy will be in accordance with the current AWWA Standards.
- (b) The Owner, upon written application to the City, on the prescribed form, may have the Water Meter at his Property tested by the City to determine if the Water Meter is over-registering. The Owner shall pay to the City the fee as set out in the Fee By-law for such testing.
- (c) If a Water Meter is found to be over-registering in excess of one and one half percent (1.5%) in favour of the City, the City shall credit the Owner's Account with an amount equal to the difference between the amount that had been billed and the amount that would have been billed had the Water Meter been recording consumption accurately. Such credit adjustment shall cover a period of no more than twenty-four (24) months and shall include the testing fee as set out in the Fee By-law.
- (d) Notwithstanding 5.2.2 (c) above, in the event that the Water Meter had been installed, replaced, or tested and calibrated within a twenty-four (24) month period prior to the accuracy test requested by the Owner, and if a Water Meter is found over-registering in excess of one and one half percent (1.5%) in favour of the City when tested by the City in accordance with AWWA Standards, the City shall credit the Owner's Account with an amount equal to the difference between the excess amount billed from the time of the installation, replacement or testing and calibration, whichever is later, to the time of the accuracy test requested by the Owner.
- (e) In the event the accuracy test indicates over-registering by the Water Meter in an amount less than or equal to one and one half percent (1.5%) then no credit shall be applied to the Owner's Account. In addition, the Owner shall pay to the City all expenses incurred by the City in removing, replacing, flow monitoring or testing the Water Meter, as set out in the Fee By-law.
- (f) Positive displacement type Water Meters up to and including fifty (50) mm (two (2) inches) in diameter shall be removed by the City and tested at an off-site location specified by the City. Compound, turbine, electromagnetic and fire service Water Meters equal and greater than fifty (50) mm (two (2) inches) in diameter shall, at the City's sole discretion, be tested either on site or at an off-site location specified by the City.

- (g) If a Water Meter fails to register, the City will Back Charge the Owner a water consumption fee based on previous year consumption as determined by the City for a period during which the Water Meter failed to register but no more than twenty-four (24) months.

5.2.3 RELOCATION OF THE WATER METER

- (a) No Person shall relocate a Water Meter on a Property without the written consent of the City, once the Water Meter is installed to the satisfaction of the City.
- (b) No Person shall disconnect a Water Meter for maintenance or repair without the written consent of the City.
- (c) The Owner/Applicant may make an application, on the prescribed form to the City, to relocate a Water Meter on a Property. The Owner/Applicant shall pay all costs associated with any relocation of the Water Meter as set out in the Fee By-law, if approved by the City.
- (d) The City shall not approve the application for a Water Meter relocation if:
 - i. the application is incomplete;
 - ii. the prescribed fee is not paid; or
 - iii. the proposed relocation is not in accordance with the City Standards and Specifications with respect to the location of the Water Meter or otherwise.
- (e) The City may require the relocation of an installed Water Meter at the sole cost of the Owner if its location is not in compliance with the City Standards and Specifications.
- (f) All Water Meter relocation work and material shall conform to the City Standards and Specifications and comply with the requirements of the Ontario Building Code.
- (g) If the Owner or his authorized agents does not carry out the work as required by the City under 5.2.3 (e), then the City reserves the right to carry out the Water Meter relocation and all necessary work. The City shall not be liable for any loss or damage to the Owner's Property or loss or damage otherwise suffered by the Owner arising from such work.
- (h) The Owner shall pay all costs incurred by the City as a result of the Owner failing to relocate the Water Meter under 5.2.3 (e). The Owner shall also pay the inspection fee for each attendance at the Property made by the City, including the cost incurred by the City to perform the inspection plus overhead and applicable tax.

5.2.4 WATER METER LEAKS

- (a) The Owner or Occupier shall immediately notify the City if any leaks develop at the Water Meter or its couplings.
- (b) The City will repair the leaks at the Water Meter or its couplings with no charge to the Owner. The City shall not be liable for any damage or loss to the Owner's Property as a result of any such leaks at the Water Meter or its couplings.

5.2.5 WATER METER REPLACEMENT

- (a) A Water Meter will be scheduled for replacement when approaching the end of its lifecycle under the City's annual Water Meter replacement program.

5.3. SPRINKLER METER

The Owner or Occupier with a Sprinkler Meter shall pay the City the Turn Water ON/OFF fee as set out in the Fee By-law, for each attendance at the Property as requested by the Owner or Occupier.

5.4. BUILDING DEMOLITION

- (a) No Person shall demolish a Building until the final Water Meter reading is obtained and the Water Meter and Remote Readout Unit are recovered by the City.
- (b) The Owner who has received a permit to demolish a Property shall notify the City in writing minimum five (5) Business Days in advance of the date on which the Water supply to the Property is no longer required. The Owner shall also make an appointment with the City to take a final Water Meter reading, remove the Water Meter and the Remote Readout Unit from the Property and turn off the Water supply at the Water Shut Off Valve.
- (c) The Owner shall pay the City the Water Meter removal cost as set out in the Fee By-law.
- (d) The Owner or his authorized agents shall be present at the Property when the final Water Meter reading is taken, the Water Meter is removed and the Water supply is turned off.
- (e) In the event an Owner or his authorized agents fails to attend at the Property and provide access to the City at the appointment time set under this By-law, the Owner shall pay the City the missed appointment fee as set out in the Fee By-law.
- (f) In the event an Owner fails to provide access to a Property prior to the demolition of a Building or structure on the Property, in accordance with this By-law, the Owner shall pay to the City an amount equal to the cost of a new Water Meter and Remote Readout Unit of the same type and size in accordance with the fees and charges set out in the Fee By-law. The Owner shall also pay the amount of Water consumption, from the last Water Meter reading date to the date of disconnection of the Private Water Service Pipe or Water Service Connection from the Municipal Drinking Water System, as estimated by the City.
- (g) If the City determines that it is not necessary to recover a Water Meter from a Property to be demolished, then the City will notify the Owner in writing after receipt of the notice from the Owner to demolish a Building or structure. Upon receipt of the notice from the City and after the disconnection of the Private Water Service Pipe or Water Service Connection from the Municipal Drinking Water System, the Owner or his authorized agents may proceed with the demolition of the Building. In such case, the Owner shall be responsible for the removal and disposal of the Water Meter.

6. TAKE WATER FROM FIRE HYDRANT

6.0. FIRE HYDRANTS

- 6.0.0 No Person, except authorized by the City, shall operate or take Water from any City hydrant unless such Person is the holder of a hydrant permit issued under this By-law.

6.1. FIRE HYDRANT PERMITS

- 6.1.0 A Person may make an application on a form provided by the City for a temporary supply of Water from a fire hydrant. The Applicant shall pay in advance the charges, as set out in the Fee By-law for the use of the fire hydrant and the rental fee for a hydrant meter and a Backflow Preventer.
- 6.1.1 Once an application has been approved for a temporary supply of Water from a fire hydrant, the City will provide and install a Backflow Preventer, a valve and a temporary Water Meter on the fire hydrant. The supplied Backflow Preventer, valve and temporary Water Meter shall not be removed or tampered with. Water will only be supplied through the Water Meter. Connection to the fire hydrant and taking of Water from the hydrant except through the temporary Water Meter is not permitted.
- 6.1.2 The Applicant shall provide a security deposit as set out in the Fee By-law to ensure the safe return and proper working condition of any Backflow

Preventer, temporary Water Meter or valve supplied by the City and payment for Water consumption registered on the Water Meter.

- 6.1.3 The City may, by issuing a hydrant permit, authorize the use of a specified City hydrant for a specified time and under specified conditions, including the supervision of such use by the City. A hydrant permit may, at the discretion of the City, be suspended for any length of time.

7. BY-LAW WORDING

Unless the context requires otherwise, a word importing the singular number is used in this By-law, such word shall include the plural and vice versa, and word importing gender shall include all genders. The grammatical changes required to make the provisions of this By-law apply to individuals (male or female), sole proprietorships, partnerships, unincorporated associations, unincorporated organizations, corporations, trustees, heirs, executors, administrators and other legal representatives where the context so requires shall be assumed as though in each case fully expressed.

8. PENALTY PROVISIONS

- 8.0. Every Person who contravenes this By-law is guilty of an offence.
- 8.1. If the contravention of any provision of this By-law has not been corrected, the contravention of the provision shall be deemed to be a continuing offence for each day or part of a day that the contravention remains uncorrected.
- 8.2. If any order has been issued under this By-law, and the order has not been complied with, the contravention of the order shall be deemed to be a continuing offence for each day or part of a day that the order is not complied with.
- 8.3. For purposes of this By-law, an offence is a second or subsequent offence if the act giving rise to the offence occurred after a conviction had been entered at an earlier date for the same offence.
- 8.4. Every Person who is guilty of an offence under this By-law, upon conviction, shall be liable to the following fines, as established pursuant to the *Building Code Act*, as amended:
- (a) Upon a first conviction, to a fine of not less than One Hundred Dollars (\$100.00) and not more than Fifty Thousand Dollars (\$50,000.00);
 - (b) Upon a second or subsequent conviction for the same offence, to a fine of not less than Four Hundred Dollars (\$400.00) and not more than One Hundred Thousand Dollars (\$100,000.00);
- 8.5. Proceeds of Fines
- Pursuant to subsection 433 (1) of the *Municipal Act*, where a Person has been convicted of any offence under this By-law, every fine imposed for a contravention of this By-law belongs to the City.
- 8.6. Special Fines
- In addition to any other fine, every Person who gains an economic advantage or economic gain from contravening this By-law, shall be liable to a special fine in an amount equal to the fair market value of the economic advantage or economic gain so obtained from such contravention. A special fine may exceed One Hundred Thousand Dollars (\$100,000.00).

9. GENERAL BY-LAW ENFORCEMENT POWERS

9.0. ORDER TO DISCONTINUE ACTIVITY

Pursuant to section 444 of the *Municipal Act*, the City may make an order requiring any Person, who contravened this 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 contravening activity.

9.1. WORK ORDER

Pursuant to section 445 of the *Municipal Act*, the City may make an order requiring any Person, who contravened this By-law or who caused or permitted the

contravention or the Owner or Occupier of the land on which the contravention occurred to do work to correct the contravention.

10. NOTICE

Where an order is issued by the City, the Person is in receipt of the order on the date it is posted in a conspicuous place at the subject Property. The Person is deemed to be in receipt of the order, if the order is delivered personally or posted by mail five (5) Business Days at the last known address provided to the City. If no address for the Person has been provided, then the City will send the notice by mail to the Property address identified on the tax rolls.

11. FEES

Any fees and administrative costs associated with this By-law are non-refundable and are either indicated in the City's Fee By-law, as amended, or in this By-law.

12. GENERAL PROVISIONS

12.0. Where a timeframe is set out in this By-law for carrying out any action, the City may extend the time for compliance beyond the established timeframe provided such extension is acceptable to the City.

12.1. The AWWA Standards referred to herein shall form part of this By-law.

13. SEVERABILITY

Notwithstanding that any section, or any part or parts thereof, of this By-law may be found by any court of law to be invalid, unenforceable or beyond the power of the Council to enact, it is the intention of Council that such section, 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.

14. REPEAL

All By-laws of the City previously providing for installation, inspection, repair, maintenance, and access to Water Meters and related appurtenances are hereby repealed.

15. INTERPRETATION

The provisions of Part VI of the *Legislation Act, 2006*, S.O.2006 c.21, Schedule F, shall apply to this By-law.

16. SHORT TITLE

This By-law shall be known as the "Water Meter By-law".

17. EFFECTIVE DATE

This By-law comes into force on the day it is passed.

**BY-LAW READ A FIRST, SECOND AND THIRD TIME AND
FINALLY PASSED THIS ____ DAY OF _____, 2012.**

FRANK SCARPITTI, MAYOR

KIMBERLEY KITTERINGHAM,
CITY CLERK