



BY-LAW 2012-xxx

A By-law to regulate cross connections and backflow prevention
in private plumbing systems as required to protect
the Town of Markham drinking water system and supply from contamination

WHEREAS pursuant to subsections 11(3) and (11) of the *Municipal Act*, the Corporation of the Town of Markham (hereinafter referred to as the "Town") has the responsibility for the distribution of water within the Town;

AND WHEREAS the Town is deemed to be the "water purveyor" as defined by Part I of the *Ontario Building Code*;

AND WHEREAS pursuant to subsection 20(1) of the *Safe Drinking Water Act*, it is an offence to cause or permit anything to enter a drinking-water system if it could result in, a drinking-water health hazard, a contravention of a prescribed standard or the interference with the normal operation of the system;

AND WHEREAS subsection 11(1) of the *Safe Drinking Water Act* requires every owner of a municipal drinking water system, amongst other things, to ensure that all water provided by the system to the point where the system is connected to a user's plumbing system meets the requirements of the prescribed drinking-water quality standards;

AND WHEREAS Part 7 of the *Ontario Building Code* requires potable water systems to be protected from contamination;

AND WHEREAS pursuant to subsection 11(2) of the *Municipal Act* a municipality may pass a by-law for purposes related to the health, safety and well-being of the inhabitants of persons;

AND WHEREAS contamination of the Town's drinking-water supply can arise as a result of a backflow incident from a private plumbing system which is attached to the Town's municipal drinking-water system;

AND WHEREAS the contamination of the municipal drinking-water system can have an adverse impact on the health, safety and well-being of the users of the Town's drinking water;

AND WHEREAS, the Town desires to protect the health, safety and well-being of the inhabitants of the Town by passing a By-law to put mechanisms in place so as not to permit the discharging of a contaminating substance into the municipal drinking-water system for which the Town is responsible;

AND WHEREAS section 446 of the *Municipal Act* authorizes a municipality through by-law to require, in default of a required matter or thing being done, that the work may be done by the municipality at the expense of the person required to do it and the costs may be added to the tax rolls and collected in the same manner as taxes.

**NOW THEREFORE THE COUNCIL OF THE TOWN OF MARKHAM
ENACTS AS FOLLOWS:**

1 **DEFINITIONS**

1.0 For the purposes of this By-law:

"ASSE" means the American Society of Sanitary Engineering;

"AWWA" means the American Water Works Association;

"*Authorized Functions List*" means the list of functions and the persons with the required qualifications authorized to carry out such functions as set out in Schedule "A" of this By-Law;

"*auxiliary water supply*" means any water source or system, other than the *Town's drinking water*, that may be available in a *building* or *structure* on any property;

"*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*;

"*back siphonage*" means a backflow caused by negative pressure in the municipal water distribution system, as defined by the *Ontario Building Code*;

"*building*" shall have the same meaning as set out in the *Building Code Act*;

"*Building Code Act*" means the *Building Code Act, 1992*, S.O. 1992, c. 23, as amended, or any successor thereof;

"*cross connection*" means any actual or potential connection between a *potable water* system and any source of pollution or contamination and includes any by-pass, jumper connection, removable section of pipe, swivel or changeover device and any other temporary or permanent connecting arrangement through which *backflow* may occur;

"*Cross Connection Control Survey Report*" means a report which shall include all cross connections identified, existing method of protecting those cross connections and corrective measures & recommendations on the Town of Markham's prescribed form, as amended from time to time;

"*CSA Standard*" means the document entitled CAN/CSA B64.10-07/B64.10.1-07 - Manual for the Selection and Installation of Backflow Preventers / Manual for the Maintenance and Field Testing of Backflow Preventers published in July 2007 by the Canadian Standards Association, or any successor thereof;

"*Device Upgrade Implementation Report*" means a report which shall record all work done by a property owner for taking corrective actions on those deficiencies identified either on the *Cross Connection Control Survey* report or on the *Preventer Test* reports for his or her property. This report shall be completed on Town of Markham's prescribed form, as amended from time to time;

"*Director of Environmental Services*" shall mean the person designated as the Director of Environmental Services for the Town of Markham or his or her designate;

"*drinking water*" means drinking water as defined in subsection 2(1) of the *Safe Drinking Water Act* as follows:

- (a) water intended for human consumption, or
- (b) water that is required by an Act, regulation, order, municipal by-law or other document issued under the authority of an Act,
 - i. to be potable, or
 - ii. to meet or exceed the requirements of the prescribed drinking-water quality standards

"*drinking-water system*" means drinking-water system as defined in subsection 2(1) of the *Safe Drinking Water Act* as follows:

means a system of works, excluding plumbing, that is established for the purpose of providing users of the system with drinking water which includes:

- (a) any thing used for the collection, production, treatment, storage, supply or distribution of water,
- (b) any thing related to the management of residue from the treatment process or the management of the discharge of a substance into the natural environment from the treatment system; and
- (c) a well or intake that serves as the source of entry point of raw water supply for the system.

"*fire service main*" as defined by the *Ontario Building Code*, means a pipe and its appurtenances that are connected to a source of water and that are located on a property as follows:

- (a) between the source of water and the base of the riser of a water-based fire protection system,
- (b) between the source of water and inlets to foam making systems,
- (c) between the source of water and the base elbow of private hydrants or monitor nozzles,
- (d) as fire pump suction and discharge piping not within a *building*, or
- (e) beginning at the inlet side of the check valve on a gravity or pressure tank.

“*Information Request Form*” means a report which shall include information regarding property owner, primary contact, tenants and business activities on a property on the prescribed Town of Markham “Information Request Form”, as amended from time to time.

“*minor hazard*” means any cross-connection or potential cross-connection that constitutes only a nuisance, with no possibility of any health hazard, and which is identified as a minor hazard connection by the *CSA Standards*;

“*moderate hazard*” means any minor hazard that has a low probability of becoming a severe hazard and under certain conditions can create a danger to health; and which is identified as a moderate hazard connection by the *CSA Standards*;

“*Municipal Act*” means the *Municipal Act, 2001*, S.O. 2001, c.25, as amended from time to time;

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

a drinking-water system or part of a drinking-water system,

- (a) that is owned by a municipality or by a municipal service board established under the *Municipal Act*,
- (b) that is owned by a corporation established under sections 9, 10 and 11 of the *Municipal Act* in accordance with Section 203 of the *Municipal Act*;
- (c) from which a municipality obtains or will obtain drinking water under the terms of a contract between the municipality and the owner of the system, or
- (d) that is in a prescribed class;

“*Ontario Building Code*” means O. Reg. 350/06, of 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.1997, c.4, or any successor thereof.

“*owner*” means any person, firm or corporation having control over property to which this By-law applies and includes the owner registered on the title of the property and any occupant of any building or structure located on such property;

“*person*” includes an individual, association, partnership, corporation, *qualified person* or municipality and includes an agent or employee of such person;

“*plumbing*” means plumbing as defined by the *Safe Drinking Water Act* as follows:

a system of works,

- (a) that comprise a “water system” for the purposes of the definition of the *Building Code Act*, other than equipment installed in plumbing to treat water, and
- (b) that are connected to a drinking-water system;

“*potable water*” means water that is safe for human consumption and that complies with section 10 of the *Safe Drinking Water Act*;

“*potable water system*” means the *plumbing* that conveys *potable water*;

“*premise isolation*” means isolation of the water located within a building or structure from the Town’s water supply;

“*Preventer Test Report*” means an inspection and testing report of a backflow preventer containing the make, model, serial number, size, type, installation date,

location and installation address and the test results. The report must also contain information related to *the qualified person*. This report should be completed on the Town of Markham's prescribed form, as amended from time to time;

"*Preventer Test Tag*" means a tag containing the make, model, serial number, size, type, location, installation date and address as well as test history of a backflow preventer, as prescribed by the Town of Markham, as amended from time to time;

"*professional engineer*" means a person who holds a licence or a temporary licence issued under the *Professional Engineers Act*, R.S.O. 1990, c.P. 28, as amended;

"*qualified person*" means a private contractor with approved qualifications as set out in the Section 4 of this Bylaw, or any successor thereof;

"*residential full flow-through fire sprinkler/standpipe system*" means an assembly of pipes and fittings installed in the residential portions of a building containing one or two dwelling units that conveys water from the water service pipe to outlets in the sprinkler and standpipe systems and is fully integrated into the potable water system to ensure a regular flow of water through all parts of the sprinkler and standpipe systems, as defined by Part I of the Ontario Building Code;

"*Safe Drinking Water Act*" means the *Safe Drinking Water Act*, 2002, S.O. 2002, c.32, as amended from time to time;

"*severe hazard*" means any cross-connection or potential cross-connection involving any substance that could be a danger to health under any concentration and which is identified as a severe hazard connection by the *CSA Standard*;

"*source isolation*" means isolation of the water located within or having flowed through a source or potential source of contamination within a building or structure including a device, machine, water system or the like, from any potable water system;

"*structure*" means anything constructed or built permanently or temporarily which is provided with a source of *potable water*;

"*Town*" means The Corporation of the Town of Markham and includes its employees, servants and agents;

"*water meter*" means the water meter installed within a premise to record the amount of water supplied to such premise by the *Town* through the *municipal drinking-water system*;

"*zone isolation*" means the isolation of the water located within an area of a building or structure from any potable water system located within such building or structure.

2 APPLICATION OF BY-LAW

- 2.0 This By-law applies to all properties within the *Town*, except *buildings* or *structures* of residential occupancy where each dwelling unit is individually serviced from the *municipal drinking-water system* through a single connection less than 50 mm diameter.
- 2.1 Notwithstanding section 2.0 of this By-law, this By-law applies to plumbing in building or structures of residential occupancy having connections to the *municipal drinking-water system* with
- 2.1.1 any auxiliary water supply, or
 - 2.1.2 a lawn sprinkler system, or
 - 2.1.3 a fire protection system, except for a residential full flow-through fire sprinkler/standpipe system.

3 PROHIBITION OF CROSS CONNECTIONS - OWNER'S RESPONSIBILITY

- 3.0 No *person* or *owner* shall connect, cause to be connected, or allow to remain connected to the *Town's municipal drinking-water system* or any other potable water system any plumbing, piping, fixture, fitting, container,

appliance, vehicle, machine or the like in a manner which may under any circumstance allow water, waste water or any other liquid, chemical or substance to enter such *municipal drinking-water system* or *potable water system*, except in compliance with the provisions of this Bylaw where suitable backflow prevention is provided.

- 3.1 No *person* or *owner* shall connect, cause to be connected, or allow to remain connected any *auxiliary water supply* or private well to a *plumbing system* which is supplied by the *Town's municipal drinking-water system*.
- 3.2 In accordance with the provisions of this By-law, every *owner* of property to which this By-law applies shall ensure that a backflow prevention device is installed in respect of premise isolation, source isolation and zone isolation in every building or structure where a municipal drinking water supply or other potable water supply exists.

4 PERSONS PERMITTED TO CARRY OUT CROSS CONNECTION CONTROL WORK

- 4.0 Only those *persons* with the required qualifications listed in the *Authorized Functions List* attached as Schedule "A" shall carry out the corresponding functions set out therein.
- 4.1 In addition to required qualifications listed in Schedule "A", the persons listed in the *Authorized Functions List* attached as Schedule "A" who are permitted to perform the *Cross Connection Control Surveys* or testing of backflow preventers shall also have and submit proof of the following qualifications in a form satisfactory to the Town:
 - 4.1.1 A Tester's Certificate issued by AWWA or approved equivalent which has been issued or renewed within five years prior to date of the submission of the *Cross Connection Control Survey* or *Preventer Test Report*; and
 - 4.1.2 A current calibration certificate for the test equipment issued within the twelve months prior to date of submission of a *Preventer Test Report*.
- 4.2 No *person* listed on the *Authorized Functions List* shall carry out any of the corresponding authorized functions unless the *person* has been registered with the *Town*.
- 4.3 The Environmental Services Department administers a registration program for *persons* listed in the *Authorized Functions List*.
- 4.4 No *person* shall submit any documentation to the *Town* as part of the registration process that contains inaccurate or false information.

5 APPLICATION OF CSA STANDARD

- 5.0 Except as otherwise set out in this By-law, the installation, maintenance and field testing of *backflow preventers* required pursuant to this By-law shall be undertaken in accordance with the current *CSA Standard*.
- 5.1 Wherever the *CSA Standard* and this By-law are in conflict, the provisions of this By-law shall prevail.

6 INFORMATION REQUEST FORM REQUIREMENT

- 6.0 Every *owner* of a building or structure to which this By-law applies shall fill out an *Information Request Form* as prescribed by the *Town* and submit a legible copy of this completed form to the *Town* along with the completed *Cross Connection Control Survey* report.

7 CROSS CONNECTION CONTROL SURVEY REQUIREMENT

- 7.0 Every *owner* of a building or structure to which this By-law applies shall cause a *Cross Connection Control Survey* to be undertaken at the *owner's* expenses. The *Cross Connection Control Survey* shall be carried out starting at the water meter to all *plumbing* in each building or structure. A *Cross Connection Control Survey* shall be completed at a frequency of:
- a) Every five (5) years from the date of the first survey requested;
 - b) Upon change of operation or use of the property or as otherwise required by the *Town*;
- 7.0.1 the *owner* shall ensure that each survey conducted is carried out on the prescribed *Cross Connection Control Survey Report* form and it shall be undertaken and completed by a *qualified person* pursuant to the *Authorized Functions List*; and
- 7.0.2 the *owner* shall ensure that the completed and legible *Cross Connection Control Survey Report* is provided to the *Director of Environmental Services* within 14 days of the survey being conducted.
- 7.1 Every *owner* shall ensure that every backflow prevention device required for *premise isolation* on his or her property is a testable device and is the proper device to be used pursuant to section 7.2 of this By-law.
- 7.2 Backflow Prevention devices whether it be for *premise isolation*, *source isolation* or *zone isolation* shall be determined by using the *Ontario Building Code* and the *CSA Standard*.
- 7.3 Where a *source isolation backflow preventer* has been installed by the manufacturer of the equipment, the *owner* is required to have the *cross connection* reviewed by a *qualified person* pursuant to the *Authorized Functions List* to determine if the *backflow preventer* complies with the requirements of the *Ontario Building Code* and the *CSA Standard*. These *cross connections* shall be clearly identified on the *Cross Connection Control Survey Report*.
- 7.4 When a new connection to the *municipal drinking-water system* is made, the *owner* shall complete and submit a survey prior to the *plumbing* being put into use.
- 7.5 Where a modification to *plumbing*, equipment or a process has been made after the submission of a survey as required by this by-law, the *owner* shall complete and resubmit a new survey to the *Town* prior to the modified *plumbing* being put into use.
- 7.6 No *person* shall submit a *Cross Connection Control Survey* report to the *Town* that contains inaccurate or false information.

8 TESTING OF BACKFLOW PREVENTERS

- 8.0 Every *owner* who has a *backflow preventer* installed on his or her property shall ensure that:
- 8.0.1 such device is tested by a *qualified person* pursuant to the *Authorized Functions List* when it is first installed and annually thereafter or when requested by the *Town*, and also when it is cleaned, repaired, overhauled or relocated; and
 - 8.0.2 when such device is tested, that a *Preventer Test Report* of such test is completed by a *qualified person* pursuant to the *Authorized Functions List*, on the *Town's* prescribed form as amended from time to time,
 - 8.0.3 the *Preventer Test Report* is submitted to the *Director of Environmental Services* within 14 days of the test being conducted; and

- 8.0.4 in the event that such device is malfunctioning or otherwise not in proper working order, cause the device to be repaired or replaced forthwith by a *qualified person* pursuant to the *Authorized Functions List*.
- 8.1 Every *qualified person* who tests a *backflow preventer* shall carry out such testing in accordance with this By-law and the *CSA Standard*.
- 8.2 In addition to the testing methods set out in section 6 of the *CSA Standard*, test procedures established by the ASSE or AWWA for testing *backflow preventers* may be employed.
- 8.3 Every *qualified person* who tests a *backflow preventer* shall:
 - 8.3.1 within fourteen (14) days of carrying out such test, provide a legible *Preventer Test Report* to the *Director of Environmental Services* in respect of such test;
 - 8.3.2 upon completing such test, complete and affix a *Preventer Test Tag* to the device or immediately adjacent to the device on the piping connected thereto; and
 - 8.3.3 upon finding that such device is malfunctioning or otherwise not in proper working order, immediately notify the *owner* of the premises and the *Town* of such condition.
- 8.4 No *person* shall submit a *Preventer Test Report* to the *Town* that contains inaccurate or false information.

9 CORRECTIVE ACTIONS ON CROSS CONNECTION CONTROL DEFICIENCIES

- 9.0 Every owner of a building or structure to which this By-law applies shall take corrective actions on those deficiencies identified either on the *Cross Connection Control Survey* report or on the *Preventer Test Reports* for his or her property;
- 9.1 Upon the implementation of those corrective actions, complete the *Device Upgrade Implementation Report* as prescribed by the *Town* and submit a legible copy of this completed report to the *Town* within fourteen (14) days of the implementation being conducted.

10 INSTALLATION OF BACKFLOW PREVENTERS

- 10.0 Every *person* installing a *backflow preventer* or causing a *backflow preventer* to be installed or replaced shall ensure that:
 - 10.0.1 such device is installed in accordance with good engineering practices and the requirements of the *Ontario Building Code* and the *CSA Standard*;
 - 10.0.2 a building permit is obtained in accordance with the provisions of the *Building Code Act*;
- 10.1 Every *owner* of property upon which a *backflow preventer* is installed shall ensure that such device is in proper working order at all times.
- 10.2 Where, in the sole opinion of the *Town*, a risk of possible contamination of the municipal drinking water system exists, an *owner* on Notice from the *Town*, shall install a *premise isolation* in addition to any other source of protection devices on the premise.

11 REMOVAL OF BACKFLOW PREVENTION DEVICES PROHIBITED

- 11.0 No *owner* of a building or structure in which a *backflow preventer* is installed shall cause or permit the removal of such device or part thereof unless such

removal is to replace the device with another device that meets or exceeds the provisions of this By-law, or such removal due to change of building functions. A building permit from the *Town* is required to be completed in order to remove a *Backflow Preventer*.

12 MAINTENANCE OF FIRE SERVICE MAINS

12.0 Where a private fire hydrant or yard hydrant is connected to a *fire service main* that is supplied by the *municipal drinking-water system*, the *owner* shall cause the hydrant to be inspected annually as required by section 6.6.5.1 of the *Ontario Fire Code*.

12.1 Private Fire Hydrant – Inspection Report:

An *owner* of property on which a private fire hydrant or yard hydrant is installed shall submit annual inspection reports for each hydrant. The reports shall be completed on an approved form from the municipality and be submitted to the Chief Fire Official. The report will confirm proper function of the fire hydrant and detail all maintenance, repairs and upgrades during the reporting period.

12.2 The *Town's* Chief Fire Official or designate will review the submitted report and if there are deficiencies issue a Notice to correct those deficiencies. These deficiencies must be corrected within thirty (30) days of receipt of notification.

12.3 It is the responsibility of the *owner* of the property on which a private fire hydrant or yard hydrant is installed, to ensure all written records of tests and corrective measures are kept for two years after they are completed, and the records shall be available upon request to the Chief Fire Official.

12.4 All annual inspection reports for private fire hydrants or yard hydrants are to be submitted to:

Town of Markham
Fire & Emergency Services Department
Attention: Chief Fire Official
8100 Warden Avenue, Markham, ON, L6G 1B4

13 ADMINISTRATION AND ENFORCEMENT

13.0 The *Director of Environmental Services* 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.

13.1 The *Director of Environmental Services* has the authority to appoint employees of the *Town* to act in capacity of Provincial Offences Officers for the purposes of enforcing this By-law and such an appointment can also be rescinded by the Director of Environmental Services.

13.2 Powers of Entry (authorized under sections 435, 436 and 438 of the *Municipal Act*):

The *Town* may enter on a lot at any reasonable time for the purpose of carrying out an inspection to determine whether or not the following are being complied with:

- a) The provisions of this by-law;
- b) An order issued under this by-law; or
- c) An order made under section 431 of the *Municipal Act*

Where an inspection is conducted by the *Town*, the *person* conducting the inspection may;

- a) Require the production for inspection of documents or things relevant to the inspection;

- b) Inspect and remove documents or things relevant to the inspection for the purpose of making copies or extracts;
- c) Require information from any *person* concerning a matter related to the inspection including their name, address, phone number and identification; and
- d) Alone or in conjunction with a *person* possessing special or expert knowledge, make examinations or take tests, samples or photographs necessary for the purposes of the inspection.

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

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

- 13.3 Where the requirements of this By-law are not met or a condition exists on any property that may allow contamination of the *Town's municipal drinking-water system* or *Town's* water supply or the contamination of any other potable water system on such property, including any residential building or structure, the *Town* may:

- 13.3.1 issue and serve an Order to Comply on the *owner* of the property requiring the *owner* to comply with the requirements of the By-law and to eliminate the condition which may allow contamination and in so doing may prescribe the time period for compliance with such Order; the work to be completed which may include but is not limited to:

- a. a legible *Information Request Form* be completed and submitted to the *Town*;
- b. a legible *Cross Connection Control Survey* report be completed and submitted to the *Town*;
- c. taking corrective actions on deficiencies identified either on *Cross Connection Control Survey* report or on *Preventer Test* reports for his or her property;
- d. a *Backflow Preventer* be tested annually;
- e. a legible *Preventer Test Report* be completed and submitted to the *Town*;
- f. a *Preventer Test Tag* be applied to a *Backflow Preventer*;
- g. a Building Permit be applied for and obtained prior to installation, replacement or removal of a *Backflow Preventer*;
- h. a *Backflow Preventer* be installed;
- i. a *Backflow Preventer* be repaired;
- j. a *Backflow Preventer* be replaced;
- k. authorized functions on Schedule "A" be completed by a *qualified person* pursuant to the Schedule "A";

- 13.3.2 If a condition exists on a property which may result in the contamination of the *Town's* municipal drinking-water system or the *Town's* water supply, the *Town* may, in addition to issuing an Order to Comply, shut off the water supply to the property or any portion thereof until the condition is eliminated to the satisfaction of the *Town*.

- 13.4 Service of an Order to Comply shall be hand delivered or delivered through prepaid registered mail to the address of the *owner* shown on the most current "Tax Assessment Roll". Where service is made by registered mail, it shall be deemed to have been received by the *owner* on the seventh day after the date of mailing.

- 13.5 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 *Town* or its agents at the expense of the *person* and the *Town* 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. Unpaid outstanding court fines will also be added to the tax roll and be collected in the same manner as taxes.
- 13.6 In addition to any other provision of this By-law, the *Town* may at any time issue an Order to Comply to an *owner* to conduct tests, provide reports and undertake any other measures required for the elimination of a cross connection and the prevention of backflow.
- 13.7 Obstruct Inspector:
No *person* shall hinder or obstruct, or attempt to hinder or obstruct, a Provincial Offences Officer or other *person* so authorized who is performing a duty or exercising a power under this By-law pursuant to section 426 of the *Municipal Act*.

14 PENALTY PROVISIONS

- 14.0 Every *person* who contravenes any of the provisions of this By-law including an Order to Comply is guilty of an offence and upon conviction is liable to a maximum fine as established pursuant to the provisions of the *Provincial Offences Act*, R.S.O. 1990, c.P. 33, as amended.
- 14.0.1 Every *person* who contravenes a provision of this By-law, including an order issued under this By-law, is guilty of an offence.
- 14.0.2 If any provision of this By-law and the contravention 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.
- 14.0.3 If an 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.
- 14.0.4 Every *person* who is guilty of an offence under this By-law shall be subject to the following penalties:
- a) Upon first conviction, to a fine of not less than \$100.00 and not more than \$50,000.00;
 - b) Upon a second or subsequent conviction for the same offence, to a fine of not less than \$400.00 and not more than \$100,000.00
 - c) Upon conviction of a multiple offence, for each offence included in the multiple offence, to a fine of not less than \$100.00 and not more than \$10,000.00. The total of all fines for each included offence is not limited to \$100,000.00.
- 14.0.5 For the purposes of this By-law, "multiple offence" means an offence in respect of two or more acts or omissions each of which separately constitutes an offence and is a contravention of the same provision of this By-law.
- 14.0.6 For purposes of this By-law, an offence is a second or subsequent offence if the act giving rises to the offence occurred after a conviction had been entered at an earlier date for the same offence.
- 14.1 Proceeds of Fines:
Pursuant to the provisions of 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 *Town*.

14.2 Distress for Unpaid Fines:

Pursuant to subsection 441 (3) of the *Municipal Act*, where a fine remains unpaid after the final date on which it is payable as specified in the notice, the fine shall be deemed to be unpaid taxes and, pursuant to subsection 351 (1) of the *Municipal Act*, the Treasurer of the *Town*, or agent may seize the following to recover the taxes and costs of seizure, subject to the exemptions provided for in subsections 351 (3) and (4) of the *Municipal Act*:

- (1) The *personal* property belonging to or in the possession of the *person* fined;
- (2) The interest of the *person* fined in any personal property including such *person's* right to the possession of any personal property under a contract for purchase or a contract to which the *person* fined becomes the owner of the property upon performance of any condition;
- (3) The personal property on the land and any interest therein as described in this By-law of the owner of the land, even if the owner's name does not appear on the tax roll; and/or
- (4) Any personal property on the land, title to which is claimed under any assignment or transfer made for the purpose of defeating the seizure.

15 FEES

Any fees and administrative costs associated with this By-law are non-refundable and are indicated in the *Town's* Fees By-law, as amended.

16 GENERAL PROVISIONS

- 16.0 Where a timeframe is set out in this By-law for carrying out any action, the *Town* may extend the time for compliance beyond the established timeframe provided such extension is acceptable to the *Town*.
- 16.1 Schedule "A" Authorized Functions List and the *CSA Standard* shall form part of this By-law.
- 16.2 If a court of competent jurisdiction declares any section or part of this By-law invalid or unenforceable, it is the intention of Council that the remainder of the By-law shall continue to be in force.
- 16.3 By-law #2007-142 is repealed on the day this By-law is passed.
- 16.4 This By-law comes into force and effect on the date of its passing and enactment.

17 SEVERABILITY

Notwithstanding that any section, Schedule, or any part or parts thereof, of this By-law may be found by any court of law to be invalid or beyond the power of the Council to enact, such section, Schedule or part or parts thereof shall be deemed to be severable, and all other sections and Schedules of this By-law, or parts thereof, are separate and independent there from and enacted as such.

18 SCHEDULES

All Schedules referred to in this By-law and attached to this By-law shall be deemed to be a part of the By-law.

19 INTERPRETATION

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

20 SHORT TITLE

This By-law shall be known as the Backflow Prevention By-law.

21 EFFECTIVE DATE

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

READ A FIRST, SECOND, AND THIRD TIME AND PASSED THIS
13th DAY OF FEBRUARY, 2012

KIMBERLEY KITTERINGHAM,
TOWN CLERK

FRANK SCARPITTI, MAYOR

Note: Schedule "A" - Authorized Function List

SCHEDULE "A"
Town of Markham
By-law Number 2012-XXX

AUTHORIZED FUNCTIONS LIST

ITEM	FUNCTION	Professional Engineer with Tester's Certificate	Certified Engineering Technologist with Tester's Certificate	Licensed Master Plumber with Tester's Certificate	Journeyman Plumber with Tester's Certificate	Apprentice Plumber ³ with Tester's Certificate
1	Carry out Cross Connection Survey	✓	✓	✓	✓	
2	Install, Relocate or Replace Backflow Preventer			✓	✓	✓
3	Repair of Backflow Preventer	✓	✓	✓	✓	✓
4	Test Backflow Preventer	✓	✓	✓	✓	✓

Note 1: Tester's Certificate means an AWWA Backflow Prevention Certificate or approved equivalent.

1. Required to be under the direction of a Professional Engineer
2. Required to be employed by a Licensed Plumbing Contractor
3. Required to be employed by a Licensed Plumbing Contractor and under the direct supervision of a Master Plumber or Journeyman Plumber

Note 2: Fire System Sprinkler Filter with Tester's Certificate and Lawn Irrigation System Installer with Tester's Certification should consult with the Town for authorized functions.