



BY-LAW 2003-122

BEING A BY-LAW to regulate standing water in the Town of Markham

WHEREAS pursuant to Section 130 of the *Municipal Act, 2001*, S.O. 2001, c. 25, a municipality may regulate matters not specifically provided for in this Act or any other act for purposes related to the health, safety and well-being of the inhabitants of the municipality;

AND WHEREAS standing water provides a breeding environment for mosquitoes that carry the West Nile Virus and thereby endangers the health of the inhabitants of the Town of Markham;

AND WHEREAS Section 427 of the *Municipal Act* authorizes a municipality by 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 MUNICIPAL COUNCIL OF THE CORPORATION OF THE TOWN OF MARKHAM ENACTS AS FOLLOWS:

DEFINITIONS

1. For the purpose of this By-law;
 - (a) **By-law Enforcement Officer** means a Municipal By-law Enforcement Officer of the Town, duly appointed by by-law to administer and enforce the provisions of this By-law;
 - (b) **Equipment** means anything on a property which is capable of holding water, including but not limited to, swimming pools, wading pools, hot tubs, tires, cars, boats, garden fixtures and containers of any kind;
 - (c) **Larvicide** means any chemical, mechanical or bacterial agent that is used to impair or destroy mosquito larvae;
 - (d) **Owner** means the registered owner of property, or the person in lawful control of the property, or their respective agents and shall also include a lessee or occupant of the property;
 - (e) **Person** includes a natural individual, corporation, partnership or association and his or her agents, heirs and assigns;
 - (f) **Property** means any privately-owned land, buildings or premises in the Town of Markham, whether or not occupied;
 - (g) **Standing Water** means any water found on property, other than a natural, moving body of water that exists on a permanent basis;
 - (h) **Town** means The Corporation of the Town of Markham.

GENERAL

1. No owner shall keep or permit to be kept a property unless it is free of standing water.
2. No owner shall keep or permit to be kept a swimming pool, hot tub, wading pool, or artificial pond unless it is maintained in good repair and working condition.
3. Any owner of property may be required by a By-law Enforcement Officer to take all necessary steps to remove or dispose of standing water where located on the property. Such steps may include, but are not limited to, draining, filling of excavations and depressions in which standing water has or may collect, screening or netting of equipment as to prevent the breeding of mosquitoes, or the treatment of the property or any part thereof with a larvicide.
4. Where the requirements of this By-law are not met, a By-law Enforcement Officer may send an Order of Compliance to the owner of the property requiring the owner to comply with the requirements of this By-law. The Order of Compliance may specify the time or times when or the period or periods of time within which the owner to whom the Order is directed must comply with the Order.
5. Service of the Order of Compliance may be made by personal service or by prepaid registered mail to the address of the owner shown on the last revised assessment roll.
6. Where an Order of Compliance is served by mail in accordance with section 5 it is deemed to have been received by the owner on the fifth day after the date of mailing.
7. Wherever this By-law directs or requires any work 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 in the same manner as municipal taxes.

PENALTY AND ENFORCEMENT

8. Everyone who contravenes any of the provisions of this By-law is guilty of an offence and upon conviction is liable to a fine of not more than \$ 5,000.00 exclusive of costs, pursuant to the provisions of the *Provincial Offences Act*, R.S.O. 1990, c. P.33, as amended.
9. Nothing in this By-law shall be construed as limiting, restraining, superseding, impeding or otherwise conflicting with the authority of the Chief and local Medical Officers of Health and their powers as set out in any Act, by-law or regulation.
10. Where any provision of this By-law conflicts with a provision of any applicable government act, regulation or any other by-law, the provision that establishes the highest standard to protect the health, safety and welfare of the general public shall prevail.

11. 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.
12. This By-law shall be known as the "Standing Water By-law."

READ A FIRST, SECOND, AND THIRD TIME AND PASSED THIS
13TH DAY OF MAY, 2003.

SHEILA BIRRELL, TOWN CLERK

DON COUSENS, MAYOR