

TOWN OF MARKHAM
Ontario



BY-LAW 2005-104

**A BY-LAW TO PROHIBIT THE USE OF LAND OR THE ERECTION OR
USE OF BUILDINGS OR STRUCTURES UNLESS MUNICIPAL SERVICES
ARE AVAILABLE**

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

(Consolidated for convenience only to June, 2010)

Amended by:

By-law 2010-113 – June 8, 2010



BY-LAW 2005-104

A by-law to Prohibit the Use of Land or the Erection or Use of Buildings or Structures unless Municipal Services are Available

WHEREAS it is considered desirable for the control of development within the Town of Markham to prohibit the use of land or the erection or use of buildings or structures, unless such municipal services as may be set out in the by-law are available to service the land, buildings or structures, as the case may be, in accordance with the provisions of subsection 34 (5) of the Planning Act, R.S.O. 1990, c. P. 13, as amended;

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWN OF MARKHAM HEREBY ENACTS AS FOLLOWS:

1. In this by law,
 - a. "Multiple-Unit Building " means a building containing three or more Residential Units.
 - b. "Residential Unit" means a unit that,
 - i. consists of a self-contained set of rooms located in a building or structure;
 - ii. is used or has the capability of being used as a residential premise;
 - iii. contains kitchen and bathroom facilities designated for the exclusive use of its occupants; and
 - iv. has a means of egress to the outside of the building, which may be a means of egress through another residential unit;
 - c. "Subdivision" means a plan of subdivision, draft approved or registered in accordance with section 51 of the *Planning Act*, R.S.O. 1990, c. P.13, or similar legislation, where the public highways and lanes within the plan have not been assumed by the authority having jurisdiction.
2. For the purposes of this by-law, municipal services are deemed to be available to a Residential Unit or a Multiple-Unit Building within a Subdivision when the roads, water, storm sewer and sanitary sewer and stormwater management facilities required to service the Residential Unit or the Multiple-Unit Building satisfy the following requirements:
 - a. the public highways and lanes in the Subdivision have been constructed to base course asphalt;
 - b. the watermains, sanitary sewers, storm sewers and stormwater management facilities necessary to service the Residential Unit or the Multiple-Unit Building have been constructed and are operational;
 - c. the following requirements with respect to any necessary sanitary, storm and watermain trunks and stormwater management facilities external to the site or Subdivision have been satisfied:
 - i. all property required for the service has been dedicated to The Corporation of the Town of Markham or other government having jurisdiction, if applicable;
 - ii. the contract for the construction of the service has been awarded;
 - iii. a construction schedule, confirming completion and operation of the external service prior to occupancy, has been provided to the satisfaction of the Town's Director of Engineering;
 - iv. the Town or other government having jurisdiction has received adequate security for the construction of the external services, if it is intended to be constructed by a private party; and
 - v. approvals have been received by the owner from the Town or other agencies having jurisdiction for the construction of the services."

(Amended by By-law 2010-113)

- d. the watermain and any required service connections 100mm in diameter or greater in size have been disinfected in accordance with Ontario Provincial Standard Specification 701 and American Water Works Association Standard C651-99, and the water meets Provincial quality standards and such other standards as are adopted by The Corporation of the Town of Markham;
 - e. the watermain and any required service connections 100mm in diameter or greater in size have been hydrostatically tested in accordance with Ontario Provincial Standard Specification 701 and American Water Works Association Standards C600-99 and C605-94 or such other standards adopted by The Corporation of the Town of Markham;
 - f. a water flow test has been conducted in accordance with NFPA Standard 291 and at no point in the system are the following flow standards for firefighting purposes not met: 5,000 litres/minute at 140 kpa for detached Residential Units and 7,000 litres/minute at 140 kpa for Multiple-Unit Buildings or such other standard adopted by the Town's Fire Chief; (Amended by By-law 2010-113)
 - g. two separate accesses into any Subdivision have been provided and kept open for the purposes of emergency services access and egress, to the satisfaction of the Town's Fire Chief; and
 - h. notwithstanding clause (g) above, a single access into any Subdivision, to the satisfaction of the Town's Fire Chief, may be permitted where any Residential Unit or any Multiple-Unit Building to be constructed is not more than 100 metres, measured along the said access, from an existing, assumed public highway that is connected to the said single access. (Amended by By-law 2010-113)
3. For the purposes of this by-law, municipal services are deemed to be available to a Residential Unit or a Multiple-Unit Building that is not within a Subdivision when the roads, water, storm sewer and sanitary sewer and stormwater management facilities required to service the Residential Unit or the Multiple-Unit Building satisfy the following requirements:
- a. where the Residential Unit or the Multiple-Unit Building does not front directly on an assumed public highway, an access route for fire department use, in accordance with the provisions of the Building Code, O. Reg. 350/06 or any successor legislation or regulation, has been provided;
 - b. where any sanitary, storm, watermain trunks or stormwater management facilities external to the site have not been constructed, confirmation of the following has been provided to the Director of Engineering:
 - i. all property required for the service has been dedicated to The Corporation of the Town of Markham or other government having jurisdiction, if applicable;
 - ii. the contract for the construction of the service has been awarded;
 - iii. a construction schedule, confirming completion and operation of the external service prior to occupancy, has been provided to the satisfaction of the Town's Director of Engineering;
 - iv. the Town or other government having jurisdiction has received adequate security for the construction of the external service, if it is intended to be constructed by a private party; and
 - v. approvals have been received by the owner from the Town or other agencies having jurisdiction for the construction of the services.
 - c. where sanitary sewers are not available to the lot on which the Residential Unit or the Multiple-Unit Building is to be located, a permit for a private sewage disposal system is available; (Amended by By-law 2010-113)
 - d. where a new watermain extension is required to provide water service, the watermain and any required service connections 100mm in diameter or greater in size have been disinfected in accordance with Ontario Provincial Standard Specification 701 and American Water Works Association Standard C651-99, and the water meets Provincial quality standards and such other standards as are adopted by The Corporation of the Town of Markham;

- e. where a new watermain extension is required to provide water service, the watermain and any required service connections 100mm in diameter or greater in size have been hydrostatically tested in accordance with Ontario Provincial Standard Specification 701 and American Water Works Association Standards C600-99 and C605-94 or such other standards adopted by The Corporation of the Town of Markham; and
 - f. where a new watermain extension is required to provide water service, a water flow test has been conducted on the watermain and any service connections 100mm in diameter or greater in size in accordance with NFPA Standard 291 and at no point in the system are the following flow standards for firefighting purposes not met: 5,000 litres/minute at 140 kpa for detached Residential Units and 7,000 litres/minute at 140 kpa for Multiple-Unit Buildings, such other standard adopted by the Town's Fire Chief. (Amended by By-law 2010-113)
4. Notwithstanding the provisions of any other by-law hereinbefore or hereafter enacted pursuant to s. 34 of the Planning Act, or any predecessor thereof, by the Council of The Corporation of the Town of Markham, or any predecessor thereof, no land shall be used and no building or structure shall be erected or used which will result in the creation of any new or additional Residential Units unless:
 - a. water and sanitary sewer capacity is available and the Council of The Corporation of the Town of Markham has allocated water and sanitary sewer capacity to service the said lands and Residential Units or the said Council has exempted the development or the class of development from the requirement for allocation of capacity; and
 - i. the Town's Director of Engineering has confirmed that municipal services are available in accordance with Clauses 2(a) to (e) both inclusive or Clauses 3(b), (d) and(e), as the case may be,
 - ii. the Town's Fire Chief has confirmed that Clauses 2(f) to (h) both inclusive or Clauses 3(a) and (f), as the case may be, and
 - iii. the Town's Chief Building Official has confirmed that clause 3(c) have been complied with;
 - b. with respect to Multiple-Unit Buildings, the Council of The Corporation of the Town of Markham has approved a site plan under section 41 of the Planning Act, R.S.O. 1990 c. P. 13 and the owner of the land has executed a site plan agreement, if applicable, and
 - i. the Town's Director of Engineering has confirmed that municipal services are available in accordance with Clauses 2(a) to (e) both inclusive or Clauses 3(b), (d) and(e), as the case may be,
 - ii. the Town's Fire Chief has confirmed that Clauses 2(f) to (h) both inclusive or Clauses 3(a) and (f), as the case may be, and
 - iii. the Town's Chief Building Official has confirmed that clause 3(c) have been complied with, or
 - c. a conditional building permit therefore has been issued by the Town's Chief Building Official. (Amended by By-law 2010-113)
5. Nothing in this by-law shall prevent:
 - a. The erection of buildings for uses incidental to construction, such as a construction camp or other such temporary work camp, tool shed, scaffold or other building or structure incidental to the construction only for so long as the same are necessary for work in progress which has neither been finished nor abandoned; and
 - b. The erection of model homes and sales offices, subject to such terms and conditions as established by the Town and provided that an access route for fire department use in accordance with the Building Code, O. Reg. 403/97 has been provided.
6. This by-law shall apply to all of the lands within the areas identified on Schedule "A" to this by-law.

READ A FIRST, SECOND, AND THIRD TIME AND PASSED THIS
12TH DAY OF APRIL, 2005.

“Sheila Birrell”

SHEILA BIRRELL, TOWN CLERK

“Don Cousens”

DON COUSENS, MAYOR

SCHEDULE A

