

Authority: Item 9, Committee of the Whole
Report 02-33, (CS02081)
CM: October 9, 2002

Bill No. 284

CITY OF HAMILTON

BY-LAW NO. 02-284

To Establish Fees for Fire Prevention and Suppression Services

WHEREAS Section 220.1 of the *Municipal Act*, R.S.O. 1990, c. M.45, provides for the Council of a Municipality to enact a by-law to impose fees or charges for the provision of services.

NOW THEREFORE the Council of the City enacts as follows:

1. Interpretation

1.1 In this By-law

- (a) “City” means the City of Hamilton;
- (b) “false alarm” means an alarm condition in a building to which the Fire Department is dispatched and in respect of which no fire or carbon monoxide problem is found;
- (c) “Fire Department” means the Hamilton Emergency Services-Fire;
- (d) “Fire Prevention Service” means a fire prevention service to which this By-law applies;
- (e) “non-resident” means a person who does not reside in the City and who is not the owner or tenant of a property in the City;
- (f) “owner” means the person having effective control over or apparent possession of property or the relevant portion thereof, or where that person cannot be determined, the registered owner of that property, and for the

purposes of this by-law, a mortgagee-in-possession of property, or a receiver and manager, personal representative or trustee in bankruptcy who has taken possession of that property shall be deemed to have effective control over the property;

- (g) “property” means any public or private land, building, structure or other real property within the City, but does not include real property or any leasehold interest therein owned by the Crown either Federally or Provincially.

1.2 For the purposes of this By-law, the Fire Department shall be deemed,

- (a) to have responded to a call for assistance, emergency services or a fire or emergency service related incident where any one or more vehicles, equipment or personnel of the Fire Department are dispatched or otherwise respond to that call or incident; and
- (b) in determining whether it has responded for a second or subsequent time. regard shall be had only to responses of the Fire Department within the immediately preceding twelve month period.

1.3 In this By-law,

- (a) a word importing the masculine, feminine or neuter gender only includes members of the other genders;
- (b) a word defined in or importing the singular number has the same meaning when used in the plural number, and vice versa;
- (c) a reference to any Act, bylaw, rule or regulation or to a provision thereof shall be deemed to include a reference to any Act, bylaw, rule or regulation or provision enacted in substitution therefor or amendment thereof;
- (d) the headings to each section are inserted for convenience of reference only and do not form part of the By-law;

- (e) words and abbreviations which have well-known technical or trade meanings are used in the By-law in accordance with those recognized meanings;
- (f) where an officer of the City is named, or a reference is made to an office of the City, that reference shall be deemed to include a reference to the designate of that person, as appointed in accordance with policies and procedures of the City in force from time to time.

2. **Fees for Fire Prevention Services**

Unless waived by the Director of Emergency Services or the Chief Fire Prevention Officer a person who requests any one or more of the Fire Prevention Services to which this By-law applies shall pay the appropriate fee specified in this By-law.

3. **Notice of Work or Testing**

- 3.1 No person shall undertake any work or testing on any life safety system or device that sends an alarm directly to an alarm monitoring company without prior notice to that alarm monitoring company
- 3.2 No person shall undertake any work or testing on any life safety system or device that does not send a signal to an alarm monitoring company without prior notice to the Fire Department Communications Division.

4. **Fees for False Alarm Responses**

- 4.1 Where the Fire Department responds to a false alarm that is the result of a failure to notify either an alarm monitoring company as described in Section 3.1, or is the result of a failure to notify the Fire Department as described in Section 3.2, the owner of the property in respect of which such a false alarm has occurred shall pay a fee of \$500 in respect of that alarm.
- 4.2 Where the Fire Department responds to four or more false alarms in the same building in any 30 day period, the property owner (or, in lieu thereof, the person responsible for those false alarms, where that person can be determined) shall pay a fee of \$350 for the fourth alarm and for any subsequent false alarm during that 30 day period.

4.3 Unless section 4.2 applies, where the Fire Department responds to six or more false alarms in the same building in any calendar year, the property owner (or, in lieu thereof, the person responsible for those false alarms, where that person can be determined) shall pay a fee of \$350 for the sixth alarm and for any subsequent false alarm during that calendar year.

5 **Non-Resident Motor Vehicle Responses**

5.1 Where the Fire Department responds to a call or incident within the City pertaining to a motor vehicle owned by a non-resident of the City, the owner of that non-resident motor vehicle may be charged and (if charged) shall pay a response fee set of \$350 per Fire Department vehicle for the first hour during which such vehicles are involved in that response (measured from the time of dispatch to the time of their departure from the scene), plus \$175 for each half hour thereafter, as determined in accordance with section 8.

5.2 Where the Fire Department responds to a call or incident within the City that pertains to more than one motor vehicle owned by non-residents of the City, the applicable response fee will be equally divided among all non-resident motor vehicle owners.

6 **Open Air Burning**

6.1 Where the Fire Department responds to a second or subsequent call or incident, at a property within the City involving an open air fire for which no open-air burning permit has been obtained by the property owner, the owner of the property at which the open-air burning has occurred shall pay a fee of,

(a) \$350 per vehicle for the first hour during which Fire Department personnel are in attendance at the scene of that property; and

(b) \$175.00 per half-hour per vehicle for each half-hour thereafter.

6.2 Where the Fire Department responds to a second or subsequent call or incident, at a property within the City that involves a violation of the Fire Department's Open Air Burning Permit guidelines, as published from time to time, the owner of the property at which the open-air burning has occurred shall pay a fee of,

(a) \$350 per vehicle for the first hour; and

(b) \$175.00 per vehicle for each half-hour thereafter,
as determined in accordance with section 8.

7 Other Fire Suppression Responses

7.1 Where the Fire Department responds to a call or incident within the City of Hamilton involving dangerous goods, other than an emergency, the motor vehicle owner on which those goods are being carried, or (where those goods are not being carried on a motor vehicle), the owner of the property on which those goods are situate, shall be liable for and shall pay the cost of any materials consumed in providing that response.

7.2 Where a request is made to have Fire Department apparatus or personnel attend at a community related event for non-emergency stand-by, the decision to provide or not provide this service shall be for the Director of Emergency Services, acting in his or her reasonable discretion based upon staffing, resource allocations, staff safety and any other considerations deemed appropriate by the Director of Emergency Services, but where that service is provided, the organizer of the event shall pay a fee of \$350.00 per vehicle plus appropriate hourly crew costs.

7.3 Where a request is made to have Fire Department apparatus or personnel attend at an event for non-emergency stand-by, and that event is other than a community related event, the decision to provide or not provide this service shall be for the Director of Emergency Services, acting in his or her reasonable discretion based upon staffing, resource allocations, staff safety and any other considerations deemed appropriate by the Director of Emergency Services. If provided, the fee payable shall be \$350.00 per hour per vehicle for the first hour and \$175.00 per half-hour per vehicle thereafter.

7.4 Where a request is made for the provision of a Fire Prevention Service described in Column 1 of Schedule A, the property owner shall pay the corresponding fee set out in Column 2 of that Schedule.

8. Computation of Fees

- 8.1 The computation of time for the purposes of determining the appropriate fee for a service shall commence at the time of dispatch or leaving from Fire Department premises and shall end at the time of return to those premises.
- 8.2 Where the provision of service requires attendance on more than one occasion, a separate fee shall be paid for each attendance.
- 8.3 Fire Department staff shall maintain records of the time spent responding to requests for services to which this By-law applies, and in the absence of manifest error, those records shall be conclusive evidence of the facts stated therein.
- 8.4 Any amount provided as being payable as a fee under this By-law shall be deemed to include all applicable Goods and Services Tax.

9 Disputes with Respect to Fees

- 9.1 Where a person who is invoiced in respect of a fee under this By-law disputes his or her liability to that fee, or to the amount of fee calculated as owing, that person may provide a statement in writing setting out in detail the basis of his or her objection to the Director of Emergency Services
- 9.2 Upon receipt of a written objection under subsection 9.1, the Director of Emergency Services shall review the matter as soon as practical and shall determine whether the fee was correctly imposed or calculated, as the case may be.
- 9.3 The Director of Emergency Services shall respond to the person who provided the statement, in writing, providing reasons for his or her decision.
- 9.4 The decision of the Director of Emergency Services in this regard shall be final.

10. Collection of Outstanding Fees

- 10.1 A fee imposed under this By-law is due and payable upon the issue of an invoice therefor by the City to the person liable to pay that fee, and where such a fee is not paid in full by that person within 30 days of the date on which such an invoice was issued, that person shall pay interest on the amount unpaid at a fixed rate of one per cent per month (12.68 per cent per annum) on the amount outstanding,

calculated on a daily basis from the date of the invoice until the date of payment in full, and compounded monthly.

- 10.2 A fee imposed under this by-law constitutes a debt owed to the City.
- 10.3 Without limiting any collection remedy otherwise available to the City, the City may add any fee payable with respect to services provided to any property within the City to the tax roll for that property, and the amount may be collected in like manner as municipal taxes.

11. Application

- 11.1 This By-law comes into effect on the date on which it is passed and enacted by the Council.
- 11.2 By-law does not apply with respect to a service provided prior to the date on which this By-law came into effect.

12. Transition

- 12.1 The following are repealed.
 - (a) By-law No. 51 10-00 of the former Corporation of the City of Stoney Creek, entitled *A By-law To Establish Fees to be Charged for Fire Department Services and Rescue Operations*;
 - (b) By-law No. 96-53-F of the former Town of Flamborough, entitled *A By-law To Establish a Fee Structure for Charging of Fees for Emergency Services, Responses and Action for Fires Intentionally Set within the Town of Flamborough by Persons who do not Obtain an Open Air Burning Permit or Who are in Violation of the Rules of Said Permit*;
 - (c) By-law No. 97-085 of the former Corporation of the City of Hamilton, entitled *A By-law to Enact User Fees for the Hamilton Fire Department*.
- 12.2 Despite section 12.1, the fees payable in section 6 shall not come into effect until January 1, 2003, and until that date, the fees payable with respect to open air burning under the by-laws identified in section 12.1 shall continue in effect.

PASSED and ENACTED this 9th day of October

, 2002


A/MAYOR- Murray Ferguson


CLERK