

Request for Decision

Fire Services - Establishing and Regulating By-Law Update

Presented To: Emergency Services Committee

Presented: Wednesday, Dec 11, 2019

Report Date Thursday, Nov 21, 2019

Type: Managers' Reports

Resolution

THAT the City of Greater Sudbury approves the recommended revisions to By-law 2014-84, a By-law to Establish and Regulate the City of Greater Sudbury Fire Services as outlined in the report entitled, "Fire Services - Establishing and Regulating By-law Update" from the Interim General Manager of Community Safety, presented at the Emergency Services Committee on December 11, 2019.

Relationship to the Strategic Plan / Health Impact Assessment

This report refers to operational matters.

Report Summary

With recent changes to the organizational structure of Fire Services and service level enhancements approved by Council over the past few years, revisions to the Establishing and Regulating By-law for Fire Services are needed to ensure it is kept up to date. Several housekeeping revisions are required and identified in this report. In addition, staff have identified opportunities to streamline the by-law which will reduce the need for revisions and amendments in the future.

Financial Implications

There are no financial implications associated with this report.

Signed By

Report Prepared By

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Division Review

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Financial Implications

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Recommended by the Department

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Recommended by the C.A.O.

Ed Archer
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Background

The Fire Prevention and Protection Act, 1997 (FPPA) sets out the legislative and regulatory framework for the establishment of fire protection in Ontario, which is a mandated municipal responsibility. It is the responsibility of municipal councils to be familiar with fire protection requirements, practices and procedures.

Part II of the FPPA, Responsibilities for Fire Protection Services, states that every municipality shall, (a) establish a program in the municipality which must include public education with respect to fire safety and certain components of fire prevention; and (b) provide such other fire protection services as it determines may be necessary in accordance with its needs and circumstances.

The mechanism in which this is done is by way of an establishing and regulating by-law. This by-law, once approved by municipal council, establishes authority of the fire chief and delegated members of the fire service to carry out the regulatory duties established under the FPPA and establishing and regulating by-law. It also sets out the council approved fire protection service levels delivered within the municipality by the fire service as required under the FPPA.

The Office of the Fire Marshal (OFM) is responsible for the administration of the FPPA and is the principal advisor to the provincial government on fire protection policy and fire safety issues. The OFM works with municipal partners to deliver fire programs and services, share expert advice, and support municipal response efforts when needed.

The OFM guidelines state that when setting or amending the levels of service in the establishing and regulating by-law, council, in consultation with the fire chief, should keep in mind the following considerations:

- the current needs and circumstances of the municipality;
- training requirements based on current standards and practices;
- acquisition and maintenance of appropriate equipment; and
- the necessary funding to achieve and maintain the levels of service.

The OFM also recommends that municipalities review their establishing and regulating by-law regularly to ensure the level of services they are providing are in accordance with the current needs and circumstances of the municipality.

The current by-law was changed in 2014 and amended in 2017. Since that time, changes in the organizational structure of the fire service and service level enhancements approved by Council through resolutions and business cases require the existing by-law to be updated.

In preparing to undertake this work, staff conducted an environmental scan of other establishing and regulating by-laws. It was noted that many municipalities have attempted to streamline and modernize their by-laws by removing details that are operational in nature. Because these operational details are ever-evolving, the by-law must be frequently updated to reflect those changes. This results in considerable

administrative work for staff and Council. The proposed revisions in the attached draft will reduce the need to revise or amend the by-law as often while maintaining the necessary content requirements. A summary of the key changes is listed below.

When there is a need to modify or enhance services levels, reports and/or business cases will be brought forward for Council's consideration.

Summary of key proposed changes:

- minor changes in text, definitions, and general wording for update or clarification purposes;
- removal of Mandate, Vision, and Primary Goals of the Fire Service (Schedule A) because they evolve over time and are better reflected in departmental documents;
- removal of the Fire Beats map (Schedule B) because these boundaries are subject to change and operational in nature; and
- Fire Protection Services - Described (Schedule C) was moved into the body of the by-law as this reflects a common practice in the sample by-laws reviewed from other communities.

Key areas of the by-law that have not changed:

- the level of service previously approved by Council;
- the responsibilities and authorities of the Fire Chief; and
- the direction to participate in responses in neighbouring municipalities outside of the City of Greater Sudbury.

Conclusion

The attached draft by-law is consistent with the recommendations of the Office of the Fire Marshal, has been reviewed by the Deputy City Solicitor, and is comparable with other municipal establishing and regulating fire by-laws.

The proposed revisions to the by-law attempt to modernize, streamline governance, and apply best practice moving forward. They seek to maintain the high level content requirements while allowing the department to be agile enough to respond to Council resolutions or service level changes in a timely manner. As an added benefit, these updates should reduce administrative burden on both staff and Council as amendments and revisions will be required less frequently.

APPENDIX "A"**BY-LAW 2019-xx****A BY-LAW OF THE CITY OF GREATER SUDBURY TO ESTABLISH
AND REGULATE THE CITY OF GREATER SUDBURY
FIRE SERVICES**

WHEREAS the *Municipal Act, 2001*, S.O. 2001 Chapter 25, as amended, provides that a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under the Act;

AND WHEREAS Section 2 of the *Fire Protection and Prevention Act, 1997*, S.O., c.4 as amended, requires a municipality to establish a program in the municipality which must include public education with respect to fire safety and certain components of fire prevention and to provide such other fire protection services as it determines may be necessary in accordance with its needs and circumstances;

AND WHEREAS Section 5 of the *Fire Protection and Prevention Act, 1997*, S.O., c.4 as amended, allows the council of every municipality to enact a by-law to establish, maintain and operate a fire department to provide fire suppression services and other Fire Protection Services within the municipality;

AND WHEREAS the Council for the City of Greater Sudbury wishes to continue its fire department and to set out the Fire Protection Services to be offered by its fire department in various geographic areas of the City;

**NOW THEREFORE THE COUNCIL OF THE CITY OF GREATER SUDBURY
HEREBY ENACTS AS FOLLOWS:**

Definitions

1. In this by-law, unless the context otherwise requires.

"Act" means the *Fire Protection and Prevention Act, 1997*, S.O. 1997, c. 4, as may be amended from time to time, and includes any successor legislation, and any and all regulations made under that statute, including the Ontario Fire Code;

"Applicable Law" includes federal, provincial and municipal statutes, regulations thereunder, codes, directives, which have application to the situation at hand, the Collective Agreement and any agreement entered into by the City;

"Chief Fire Official" means the assistant to the Fire Marshal who is the Municipal Fire Chief or a member or members of the fire department appointed by the Municipal Fire Chief under the Act.

“City” means the municipal corporation of the City of Greater Sudbury or the geographical area, as the context requires;

“Collective Agreement” means an agreement between the City and the Sudbury Professional Firefighter’s Association, Local 527 of the International Association of Firefighters and the Eastern Ontario Volunteer Firefighters Association, Local 920 affiliated with the Christian Labour Association of Canada made under the provisions of the Act and includes any amendments thereto;

“Deputy Fire Chief” means a person appointed as a Deputy Fire Chief and includes their authorized designate;

“Fire Chief” means the person appointed by Council to act as Fire Chief for the City in accordance with the Act.

“Fire Co-ordinator” means the person appointed by the Fire Marshal, under the authority of the Act to co-ordinate the district mutual aid plans, or the person appointed by the Fire Marshal to act in the absence of the Fire Co-ordinator

“Fire Marshal” means a position with specific authorities and responsibilities under the FPPA, including ensuring that fire departments throughout Ontario provide adequate levels of service to their communities, providing support to fire departments, and administering the FPPA. Also identified as the Office of the Fire Marshal;

“Fire Services” means the City of Greater Sudbury Fire Services;

“Fire Protection Services” includes:

- (a) fire suppression, fire prevention and fire safety education,
- (b) mitigation and prevention of the risk created by the presence of unsafe levels of carbon monoxide and safety education related to the presence of those levels,
- (c) rescue and emergency services,
- (d) emergency first response in accordance with the medical tiered response protocol,
- (e) communication in respect of anything described in clauses (a) to (d),
- (f) training of persons involved in providing anything described in clauses (a) to (e), and
- (g) the delivery of any service described in clauses (a) to (f).

“Firefighter” means a Fire Chief and any other person employed in, or appointed to, a fire department and assigned to undertake Fire Protection Services, and includes a Volunteer Firefighter;

“Officer” means any personnel in the Fire Services bearing the rank of captain or higher; and

“Volunteer Firefighter” means a Firefighter who provides Fire Protection Services for or on behalf of Fire Services, under the direction of the Fire Chief, either voluntarily or for a nominal consideration, honorarium, training or activity allowance.

Fire Services Continued and Organized

2.-(1) The Fire Services is hereby continued under the name of “City of Greater Sudbury Fire Services”.

(2) The Fire Services shall include the Fire Chief, such Deputy Fire Chiefs as may be appointed by Council from time to time, and such other persons as may be employed by or appointed by the City from time to time.

(3) Within the Fire Services, Firefighters shall report to Officers who shall report to the Deputy Fire Chiefs who shall report to the Fire Chief. The Fire Chief shall report to Council through the City’s Chief Administrative Officer.

(4) The Fire Services shall be subdivided into the following sections, primarily responsible for the performance of the functions assigned by the Fire Chief to such section from time to time: Administration Section, Emergency Operations Section, Fleet Services Section, Training Section, and Fire Prevention and Public Education Section. Each section shall report to the Fire Chief through a Deputy Fire Chief as determined by the Fire Chief from time to time.

(5) The Fire Chief may, in their discretion, assign Firefighters within the Fire Services to such section of the Fire Services identified in Subsection 2(4) as they may determine from time to time.

(6) The Fire Chief may assign Firefighters within the Fire Services to such fire stations as the Fire Chief may determine from time to time, subject to the provisions of Subsection 5(2).

Fire Chief

3.-(1) The Fire Chief is assigned the responsibility for the administration of this By-law and for the administration and operation of the Fire Services.

(2) The Fire Chief is delegated the authority to:

- (a) make all decisions required of the Fire Chief under this By-law;
- (b) perform all administrative functions identified herein and those incidental to and necessary for the due administration of this By-law, the administration and operation of the Fire Services, and the delivery of Fire Protection Services;

- (c) develop, implement and amend as necessary from time to time proper measures for:
 - (i) prevention, control and suppression of fires;
 - (ii) the protection and saving of life and property;
 - (iii) emergency responses; and
 - (iv) public education around issues of life safety and fire prevention;
 - (d) develop, implement and monitor appropriate training programs for Firefighters within the Fire Services, as in the opinion of the Fire Chief are required from time to time; and
 - (e) establish, implement, enforce and amend from time to time such policies and procedures as the Fire Chief may determine are required to implement this By-law, to deliver the Fire Protection Services within budgetary guidelines and staffing complements, and to ensure the appropriate care and protection of all Fire Services Firefighters and equipment. Without limiting the generality of the foregoing, the policies and procedures shall include standard operating procedures and guidelines, general orders and department rules.
- (4) The Fire Chief shall exercise all powers and duties mandated by the Act, any other Applicable Law, including but not limited to:
- (a) duties assigned as an Assistant to the Fire Marshal as designated under the Act;
 - (b) duties assigned under the Act to the Chief Fire Official;
 - (c) appointing a Firefighter or Firefighters to act as Chief Fire Official under the Act in the absence of the Fire Chief;
 - (d) enforcing compliance with the Fire Code made under the Act;
 - (e) duties assigned under the Act to the Fire Co-ordinator; and
 - (f) entering into fire protection agreements as that term is defined under the Act.
- (5) In exercising their discretion under this By-law or the Act, the Fire Chief shall consider as applicable:
- (a) the Act and other Applicable Law;
 - (b) budgetary constraints and available resources, including without limitation reliance on Volunteer Firefighters and the type and quantity of equipment available, the training level of available Firefighters;
 - (c) the safety of all Firefighters; and

- (d) the particular circumstances in which a decision must be made including without limitation, the availability and condition of access routes to the site where a response has been requested

Fire Chief - Delegation / Absences

4.-(1) The Fire Chief may delegate the performance of any one or more of their functions under this By-law to one or more persons from time to time as the occasion requires and may impose conditions upon such delegation and may revoke any such delegation. The Fire Chief may continue to exercise any function delegated during the delegation.

(2) In the absence of delegated authority in accordance with Subsection 4(1), in the event of the absence of the person identified in Column A below, the person identified in Column B below is authorized to act in the place of the Fire Chief and may exercise all of the powers of and shall perform all of the duties of the Fire Chief:

Column A	Column B
Position	Person who acts in the absence of the Person(s) filling the Position in Column A
Fire Chief	A Deputy Fire Chief, in accordance with protocols established by the Fire Chief
Fire Chief and all Deputy Fire Chiefs	An Assistant Deputy Fire Chief in accordance with protocols established by the Fire Chief
Fire Chief and all Deputy Fire Chiefs and all Assistant Deputy Fire Chiefs	The on duty Platoon Chief in accordance with protocols established by the Fire Chief
Fire Chief and all Deputy Fire Chiefs and all Assistant Deputy Fire Chiefs and the on-duty Platoon Chief	The Chief Training Officer then the Chief Fire Prevention Officer

Delivery of Fire Protection Services

5.-(1) Stations identified in Column A of the chart below, shall be staffed by fulltime Firefighters who are not Volunteer Firefighters, by Volunteer Firefighters or by a combination thereof, as set out on the corresponding line in Column B in the chart below:

Column A Fire Stations	Column B Fire Protection Services to be delivered within such Fire Stations by Fire Services Firefighters who are
Van Horne, Minnow Lake, Leon (New Sudbury) Long Lake	Fulltime Firefighters who are not Volunteer Firefighters
Copper Cliff, Waters, Lively, Whitefish, Beaver Lake, Azilda, Chelmsford, Dowling, Vermillion, Levack, Val Caron, Hanmer, Capreol, Garson, Falconbridge, Skead, Coniston, Wahnapiatae	Volunteer Firefighters
Val Therese	Composite of Volunteer Firefighters and Fulltime Firefighters who are not Volunteer Firefighters

(2) Fire Protection Services shall be delivered primarily by the Firefighters staffing the fire station, but nothing herein limits the delivery of Fire Protection Services across the municipality or limits the Fire Chief in directing the delivery of Fire Protection Services.

(3) Fire Protection Services shall be delivered under the direction of the Fire Chief within budgetary constraints and with resources then available to the Fire Chief. The delivery of Fire Protection Services shall be subject also to the circumstances and constraints at the time of the response, including without limitation, other demands for Fire Protection Services, unsafe conditions encountered on route or at the site of the response, impediments to access, environmental factors, topographical features, the area of the municipality and location of the property for which Fire Protection Services are requested and Applicable Law, including without limitation, the *Occupational Health and Safety Act*, R.S.O. 1990, c. O.1, and the *Technical Standards and Safety Act, 2000*, S.O. 2000, c. 16.

(4) Despite anything else herein, the Fire Chief, may, in their discretion, provide Fire Protection Services of a type not specifically provided for in this By-law or provided for within a particular area of the municipality where the Fire Chief determines that it is necessary and appropriate in the circumstances, and not otherwise prohibited by Applicable Law.

Fires and Emergencies

6.-(1) Where in the opinion of the Fire Chief it is necessary for the prevention, control and extinguishment of fires and the protection of life and property, the Fire Chief may authorize:

- (a) the suppression of any fire by extinguishing it and to enter private property if it is necessary to do so;
- (b) the pulling down or demolition of any building or structure to prevent the spread of fire; or
- (c) the taking of such other actions as are necessary in the circumstances, including without limitation, boarding up or barricading of buildings or property to guard against fire or other danger, risk or accident when unable to contact the property owner.

(2) Any expenses incurred by the City in engaging in the actions authorized under Subsections 6(1)(b) or (c) are a debt owed by the owner of the property on which the action or actions were taken and may be recovered by the City in any manner authorized pursuant to the *Municipal Act, 2001* and the Act.

Calls Outside of the City

7.-(1) The Fire Chief shall not authorize the Fire Services to respond to a call with respect to a fire or emergency outside the limits of the City unless, in the opinion of the Fire Chief it is appropriate to do so in the circumstances and the fire or emergency:

- (a) in the opinion of the Fire Chief, threatens property in the City or property situated outside the City that is owned or occupied by the City;
- (b) is in a municipality with which an agreement has been entered into to provide Fire Protection Services which may include an Automatic Aid Protection Agreement or a Mutual Aid agreement as those terms are defined from time to time under the Act;
- (c) is on property with respect to which a Fire Protection agreement or other agreement, has been entered into by the City to provide Fire Protection Services to that property;
- (d) is in a municipality authorized to participate in any county, district or regional Mutual Aid plan established by a Fire Co-ordinator appointed by the Fire Marshal pursuant to the Act or any other similar reciprocal plan or program on property beyond the City; or

- (e) requires immediate action to preserve life or property and the appropriate department in the other municipality is notified to respond and assume command or establish alternative measures acceptable to the Fire Chief.
- (2) The Fire Chief shall inform Council of the delivery of any Fire Protection Services outside the City pursuant to this Section 7, within a reasonable time thereafter.
- (3) Nothing in Section 7 shall impose a duty on the Fire Services to respond to a fire or emergency outside of the limits of the City.

Recovery of Costs – Additional Expenses

8.-(1) Owners of properties and other persons to whom or for whose benefit Fire Protection Services have been provided shall be subject to the fees and charges established in the City’s Miscellaneous User Fee By-law then in effect for such Fire Protection Services, whether such persons reside within or outside the limits of the City. The Fire Chief may invoice such persons in accordance with the City’s Miscellaneous User Fee By-law.

- (2) If the Fire Chief determines that in the delivery of Fire Protection Services it is necessary to incur additional expenses to retain a private contractor, rent special equipment not normally carried on a fire apparatus, use more materials than are carried on a fire response vehicle, prevent damage to equipment owned by or contracted to the City, to assist in or otherwise conduct an investigation into the cause of a fire or otherwise carry out the duties and functions of the Fire Service, then the owner of the real or personal property requiring or causing the need for those additional expenses shall be liable for the full costs thereof, including any applicable taxes. The Fire Chief may invoice such person and any such amount shall be a debt owing to the City, due on the terms set out in the invoice and collectable by any means available to the City at law.

Interpretation

9.-(1) Whenever this By-law refers to a person or thing with reference to gender or the gender neutral, the intention is to read the By-law with the gender applicable to the circumstances.

- (2) References to items in the plural include the singular, as applicable.
- (3) The words “include”, “including” and “includes” are not to be read as limiting the phrases or descriptions that precede them. Any examples provided are intended to be representative examples and not intended to be an exhaustive list;
- (4) Headings are inserted for ease of reference only and are not to be used as interpretation aids.

(5) Specific references to laws in the By-law are printed in italic font and are meant to refer to the current laws applicable with the Province of Ontario as at the time the By-law was enacted, as they are amended from time to time.

(6) Any reference to periods of time, stated in numbers of days, shall be deemed applicable on the first business day after a Sunday or Statutory holiday if the expiration of the time period occurs on a Sunday or Statutory holiday.

(7) The obligations imposed by this By-law are in addition to obligations otherwise imposed by law or contract.

(8) Terms with capitals shall be read with the meaning in Section 1, and other words shall be given their ordinary meaning.

Severability / Conflict

10.-(1) If any section, subsection, part or parts of this By-law is declared by any court of law to be bad, illegal or ultra vires, such section, subsection, part or parts shall be deemed to be severable and all parts hereof are declared to be separate and independent and enacted as such.

(2) Nothing in this By-law relieves any person from complying with any provision of any Federal or Provincial legislation or any other By-law of the City.

(3) Where a provision of this By-law conflicts with the provisions of another By-law in force in the City, the provision that establishes the higher standard to protect the health, safety and welfare of the general public shall prevail.

Short Title

11. This By-law may be referred to as the "Fire Services By-law".

Repeals

12. By-law 2014-84 of the City of Greater Sudbury and all amendments thereto are hereby repealed.

Enactment

13. This By-law shall come into force and take effect immediately upon the final reading thereof.

READ AND PASSED IN OPEN COUNCIL this xx day of xx, 2019

_____ Mayor

_____ Clerk