

COMMUNIQUE

du commissaire des incendies

October 10, 2017

No. 2017-06

MUNICIPAL ESTABLISHING AND REGULATING BYLAWS

In accordance with [recommendations](#) from the jury of the coroner's inquest into the deaths of Gary Kendall and Adam Brunt, the Office of the Fire Marshal and Emergency Management (OFMEM) is providing information to Ontario fire departments about establishing and regulating bylaws for fire department services, and encouraging them to review their respective establishing and regulating bylaw in regard to "ice / cold 'swift' water rescue services", if applicable in their jurisdiction.

The administration and governance of a fire department may be guided by an establishing and regulating bylaw, other municipal bylaws¹, council resolutions, agreements, policies, operating guidelines, and the interaction of the fire department with other municipal services, departments, committees and officials. Through bylaws and resolutions, municipal council has the means to identify the core services of the fire department, and the types and level of fire protection services it provides, based on local needs and circumstances.

Please note that, under section 14 of the *Municipal Act, 2001*, when there is a conflict between a bylaw and a provincial or federal statute or regulation, the latter prevails.

An establishing and regulating bylaw is a municipal council document outlining policy for fire departments. It can be used to show how the municipality delivers fire protection services it has determined are necessary according to its needs and circumstances, as is required by the *Fire Protection and Prevention Act, 1997* (FPPA). An establishing and regulating bylaw can state the type and level of fire protection services provided and may include policy direction in the following areas:

- legislative/regulatory requirements that may affect the delivery of fire protection services (e.g., FPPA, *Occupational Health and Safety Act*, and *Environmental Protection Act*);

¹ These bylaws may include bylaws to authorize or regulate the following: records retention; service delivery agreements (e.g., for inspections or investigations); open air burning; fees for service; cost recovery for demolition during fire suppression and fire investigations; safe handling, storage, sale and discharge of fireworks; and anything requiring council authorization by law.

- Fire Marshal directives;
- best practices (e.g., Ontario Fire Service Section 21 Advisory Committee guidance notes, National Fire Protection Association standards);
- general functions and core services to be delivered;
- goals and objectives of the fire department;
- general responsibilities of fire department personnel;
- organizational structure;
- authority to proceed beyond established response areas;
- authority to apply costs to property owners for fire investigations; and
- authority to effect necessary fire department operations, in consultation with the municipality's legal resources.

When setting or amending the levels of service in the establishing and regulating bylaw, municipal council, in consultation with the fire chief, should keep in mind the following considerations:

- the current needs and circumstances of the municipality;
- requirements and expectations, such as the following:
 - training requirements based on current standards and practices;
 - acquisition and maintenance of appropriate equipment; and
 - appropriate record keeping.
- the extent of fire department funding necessary to achieve and maintain the stated levels of service.

The OFMEM recommends that municipal councils review their establishing and regulating bylaws annually to ensure the level of services they are providing are in accordance with the current needs and circumstances of their municipality.

Fire chiefs are encouraged to share the present communiqué with municipal councils and clerks, as appropriate.

Enquiries regarding establishing and regulating bylaws should be directed to Field and Advisory Services; staff members can be reached by telephone at 1-844-638-9560 (toll free) or by e-mail at OFMEM-FAS-AA@ontario.ca.