



## By-law 2015-19

### **A By-law to Charge Fees for Services Provided by Fire and Emergency Services for Extraordinary Emergency Expenses and Non Emergency Incidents**

Whereas section 8(1) of the *Municipal Act, 2001*, S.O. 2001 c.25, as amended, (the “*Municipal Act, 2001*”) provides that the powers of a municipality under any Act shall be interpreted broadly so as to confer broad authority on municipalities to enable them to govern their affairs as they consider appropriate, and to enhance their ability to respond to municipal issues; and,

Whereas the *Fire Protection and Prevention Act, 1997*, S.O. 1997 c.4, as amended, (the “*Fire Protection and Prevention Act, 1997*”) authorizes a municipality to establish a Fire Department to provide firefighting and fire protection services and for participating in an emergency fire services program; and,

Whereas The Corporation of the City of Markham has established a Fire Department being the Fire and Emergency Services Department of the Community Services Commission to deliver firefighting and related emergency services; and,

Whereas section 391 of the *Municipal Act, 2001*, authorizes a municipality by by-law to impose fees or charges on any class of persons for services or activities provided or done by or on behalf of the municipality; and,

Whereas subsection 398(1) of the *Municipal Act, 2001*, states that fees and charges imposed by a municipality on a person constitute a debt of the person to the municipality; and,

Whereas subsection 398(2) of the *Municipal Act, 2001*, states that a municipality may add fees and charges to the tax roll of the property to which the public utility is supplied and collect them in the same manner as municipal taxes;

Now therefore the Council of The Corporation of the City of Markham enacts as follows:

#### DEFINITIONS:

1. In this By-law,

- a) “City” means The Corporation of the City of Markham;
- b) “Fire and Emergency Services” means a fire department within the meaning of the *Fire Protection and Prevention Act, 1997*, and is deemed to include any member of the City’s Fire and Emergency Services Department, and includes all City services related or incidental to the prevention, control, and suppression of fires, the protection of lives and property and emergency calls;
- c) “Property” means any public or private real property within the geographical boundaries of the City of Markham, including buildings, structures of any nature and kind in or upon such lands, but excludes real property owned by the Crown either federally or provincially;
- d) “Person” includes a corporation and its directors and officers unless the context otherwise requires;

- e) “Owner” means the registered owner of property, or any person, firm or corporation having control over or possession of the property or any portion thereof, including mortgagee in possession, receiver and manager, trustee and trustee in bankruptcy;
- f) “Fire Chief” means the person who is ultimately responsible to City Council for the delivery of fire protection services;
- g) “Deputy Fire Chief” means the person who has been appointed by City Council to act in the place of the Fire Chief of the fire department in his/her absence or in the case of a vacancy in the office.

#### EXTRAORDINARY EXPENSES

- 2. If Fire and Emergency Services responds to a fire or other emergency at a Property (including gas leaks and cut mains) and determines, or the Fire Chief or Deputy Fire Chief determines, that it is necessary to retain a private contractor, or rent special equipment, or use consumable materials other than water and medical supplies, in order to suppress or extinguish a fire, preserve property, carry out investigations or prevent a fire from spreading or otherwise control or eliminate an emergency or damage equipment owned by the City, the Owner shall be charged those expenses, plus applicable taxes.

#### NON EMERGENCY ELEVATOR INCIDENT RESPONSE

- 3. If Fire and Emergency Services attends at a Property in response to a malfunctioning and or inoperable elevator, the Owner shall be responsible to pay for the emergency call and the amount payable will be subject to the City of Markham Fee By-law 2002-276.

#### NON COMPLIANCE WITH SMOKE ALARM/CARBON MONOXIDE REQUIREMENTS

- 4. If Fire and Emergency Services attends at a residential Property, (single family dwelling or second suite), for any response or inspection and discovers that there is not a working Smoke Alarm on every level of the Property, and in accordance with City of Markham By-law 107-94, or at least one Carbon Monoxide Detector located on the sleeping level(s), the Fire and Emergency Service will provide the required combination smoke and carbon monoxide alarm(s) to bring the Property in compliance with the minimum requirements of the Ontario Fire Code (O. Reg. 213/07). The Owner will be invoiced by the City for the costs of all devices that were provided.

#### RECOVERY OF COSTS

- 5. Where the City, its employees or authorized agents have performed the work required to bring the Property into compliance with this By-law, all expenses incurred by the City in doing the work as well as any related fees, shall be deemed to be a debt to the City and may be collected by action or the costs may be added to the tax roll for the Property and collected in the same manner as taxes.

#### PENALTY

6. Every Person who contravenes any provision of this By-law is guilty of an offence and upon conviction is liable to a fine, and such other penalties, as provided for in the *Provincial Offences Act*, R.S.O. 1990, c. P.33, ("Provincial Offences Act") and the *Municipal Act, 2001*, as each may be amended from time to time.

#### COLLECTION OF UNPAID FINES

7. Pursuant to section 441.1 of the *Municipal Act, 2001*, the treasurer of a municipality may add any part of a fine for a commission of a provincial offence that is in default under section 69 of the *Provincial Offences Act* to the tax roll for any property in the local municipality of which all of the Owners are responsible for paying the fine and collect it in the same manner as municipal taxes.

#### SEVERABILITY

8. In the event of a particular provision is declared illegal or unenforceable by courts and tribunals, the remaining provisions of this By-law shall remain valid and enforceable to the fullest extent permitted by the law.

#### FORCE AND EFFECT

9. That this By-law shall come into force and effect on the date of its final passing.

Read a first, second, and third time and passed on January 27, 2015.

  
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Kimberley Katteringham  
City Clerk

  
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Frank Scarpitti  
Mayor