

The Corporation of the City of Owen Sound

By-law No. 2021-110

A By-law to authorize fire services cost recovery fees

WHEREAS subsection 5 (1) of the *Municipal Act, 2001*, S.O. 2001, c. 25 (the "Act") requires that the powers of a municipality be exercised by its Council and subsection 5 (3) requires that such powers be exercised by by-law including a capacity, right, power and privilege under section 9 unless specifically authorized to do otherwise; and

WHEREAS pursuant to section 8 of the Act, the powers of a municipality are to be interpreted broadly so as to confer broad authority on the municipality to enable the municipality to govern its affairs as it considered appropriate and to enhance the municipality's ability to respond to municipal issues; and

WHEREAS pursuant to section 391 of the Act, a municipality may impose fees or charges on persons for services or activities provided or done by or on behalf of it; and

WHEREAS pursuant to section 398 of the Act, fees and charges imposed by a municipality on a person constitute a debt of the person to the municipality; and

WHEREAS the Council of the City of Owen Sound (the "City") deems it expedient to pass a by-law to impose fees on persons to recover the costs of fire department responses; and

WHEREAS on August 30, 2021, City Council passed Resolution No. R-210830-030 directing staff to bring forward a by-law to authorize cost recovery for fire suppression activities, in consideration of staff report CS-21-077 presented to the Corporate Services Committee on July 22, 2021; and

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE CITY OF OWEN SOUND HEREBY ENACTS AS FOLLOWS:

Part I. Short Title and Definitions

Short Title

1. The short title of this by-law shall be the "Fire Services Cost Recovery By-law".

Definitions

2. In this by-law:

"**Council**" means the Council of the Municipality;

"**Fire Department**" means a fire department established by the Municipality in accordance with the provisions of the *Fire Protection and Prevention Act, 1997*, S.O. 1997, c. 4, as amended from time to time;

"**Fire Department Specific Response Fees**" means *cost recovery* fees for Fire Department attendance at a Property for which the Owner has Fire Department insurance coverage;

"**Indemnification Technology®**" shall mean Fire Department incident reporting, data collection and property insurance policy wording interpretation to maximize billing opportunities on behalf of fire departments by invoicing insurance companies for costs of fire department attendance with respect to insured perils;

"**Municipality**" means the Corporation of the City of Owen Sound;

"**Owner**" means the registered owner of property or any person, firm, corporation, partnership or society and their heirs, executors, administrators or other legal representatives, including a property manager, tenant,

occupant, mortgagee in possession, receiver, manager, trustee or trustee in bankruptcy having control over or possession of the property or any portion thereof; and

"Property" means any real property located within the geographical boundaries of the Municipality, and any real property to which the Fire Department is under a service agreement to provide Fire Department Response services, Automatic Aid or Mutual Aid. Real property includes buildings, contents and structures of any nature and kind in or upon such lands to which service is provided.

Part II. General

3. The Municipality hereby authorizes the imposition of fees from time to time in accordance with the provisions of this by-law.
4. The Owner of Property shall be responsible for the payment of Fire Department Specific Response Fees imposed by this by-law in accordance with the Schedule of Fees, attached hereto and forming part of this by-law.
5. The Municipality may use Indemnification Technology® to assess applicable insurance coverage for Fire Department Specific Response Fees.
6. Fees imposed pursuant to this by-law constitute a debt of the Owner to the Municipality and may be added to the tax roll of the Property to which the Fire Department Specific Response Fees relate.
7. Where the Municipality believes and/or Indemnification Technology® indicates Fire Department Specific Response Fees are applicable but the Owner does not have, in part or in full, insurance coverage for fire department charges for the Property, the Municipality may adjust the Fire Department Specific Response Fees to the extent of insurance coverage upon provision by the Owner of evidence, to the satisfaction of the Municipality, that no such insurance coverage exists or to demonstrate the limits of such coverage.

Part III. Interpretation

8. In this by-law, words importing the neuter gender shall include the feminine gender and masculine gender and vice versa and words importing the singular shall include the plural where the context requires.
9. If any term or provision of this by-law or the application thereof to any person shall to any extent be held to be invalid or unenforceable, the remainder of this By-law or the application of such term or provision to all persons other than those to whom it was held to be invalid or unenforceable, shall not be affected thereby, it being the intention of the Council that each term and provision of this By-law shall be separately valid and enforceable to the fullest extent permitted by law.

Part IV. Effective Date

10. This by-law shall come into full force and effect on the 13th day of September, 2021 at which time all by-laws, policies or resolutions that are inconsistent with the provisions of this by-law are hereby repealed or rescinded insofar as it is necessary to give effect to the provisions of this by-law.

FINALLY PASSED and ENACTED this 13th day of September, 2021.

Signature on file

Mayor Ian C. Boddy

Signature on file

Briana M. Bloomfield, City Clerk

SCHEDULE OF FEES**Fire Department Specific Response Fees**

1. The Fire Department Specific Response Fees shall be the total of:
 - a. *Current MTO rate per unit per hour or portion thereof for each unit
 - b. rate per person per hour or portion thereof for each firefighter
 - c. other costs including but not limited to; Foam, Metered Water, Air Tank Re-filling, Cleaning Equipment, DSPA or similar type units, cost to replace damaged or destroyed equipment, specialized response costs such as Water Bomber Drops

*The MTO rate per unit per hour is set by the Ministry of Transportation. This rate is adjusted periodically in accordance with the consumer price index.

Such fees shall be charged and calculated on the basis of each Fire Department vehicle attending, resources consumed in attendance to the property incident. The time shall be measured from the time of departure of each unit from the Fire Department's facilities to the time the unit is cleared for the next call out.