



# Town of Whitby By-law # 7263-17

Attachment # 1

## Fire Department Establishing and Regulating By-law

Being a By-law to Establish and Regulate the Fire Department, and to Repeal By-law #'s. 4202-98, 6078-08 and 6834-14.

Whereas, the Municipal Act, 2001, S.O. 2001, c.25, as amended, ("Municipal Act") provides that a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under the Municipal Act;

And Whereas, the Municipal Act provides that Sections 8 and 11 shall be interpreted broadly so as to confer broad authority on municipalities to (a) enable municipalities to govern their affairs as they consider appropriate and, (b) enhance their ability to respond to municipal issues;

And Whereas, the Fire Protection and Prevention Act, 1997, S.O. 1997, c4, as amended, ("FPPA") requires every 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, the FPPA permits a municipality, in discharging these responsibilities, to establish a fire department;

And Whereas, the FPPA permits a Council of a municipality to establish, maintain and operate a Fire Department for all or any part of the municipality;

And Whereas, the FPPA requires a municipality that establishes a Fire Department to provide fire suppression services and permits the Fire Department to provide other Fire Protection Services in the municipality;

And Whereas, the FPPA requires a municipality that establishes a Fire Department to appoint a Fire Chief;

And Whereas, the FPPA authorizes a council of a municipality to pass by-laws under the FPPA to regulate fire prevention, to regulate the setting of open-air fires and to designate private roads as fire routes.

Now therefore, the Council of The Corporation of the Town of Whitby hereby enacts as follows:

### 1. Definitions

In this By-law:

- 1.1. "Approved" means approved by Council;
- 1.2. "Automatic Aid" means any agreement under which a municipality agrees to provide an initial response to fires, rescues and emergencies that may occur in a part of another municipality where a fire department is capable of responding more quickly than any fire department situated in the other

- municipality; or a municipality agrees to provide a supplemental response to fires, rescues and emergencies that may occur in a part of another municipality where a fire department in the municipality is capable of providing the quickest supplemental response to fires, rescues and emergencies occurring in the part of another municipality;
- 1.3. “CAO” means the Chief Administrative Officer appointed by Council to act as the Chief Administrative Officer for the Corporation;
  - 1.4. “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 FPPA or a person appointed by the Fire Marshal under the FPPA;
  - 1.5. “Collective Agreement” means an agreement between the Corporation and the full-time Firefighters’ Association made under the provisions of the FPPA;
  - 1.6. “Community Emergency Management Coordinator” – (“CEMC”). Means a position identified in the Emergency Management and Civil Protection Act, 1990, c. E.9, as amended (“EMCPA”) as being responsible for the development, implementation, review and maintenance of the Emergency Management Plan for the Town of Whitby;
  - 1.7. “Confined Space” means any space that has limited or restricted means for entry or exit (i.e. tanks, vessels, silos, storage bins, hoppers, vaults, trenches, excavations and pits) and that is not designed for human occupancy;
  - 1.8. “Corporation” means The Corporation of the Town of Whitby;
  - 1.9. “Council” means the Council of the Corporation;
  - 1.10. “Deputy Fire Chief” means the person appointed by Council to act on behalf of the Fire Chief in the case of an absence or a vacancy in the office of the Fire Chief;
  - 1.11. “Commissioner of Corporate Services” means the Commissioner of the Corporate Services Department for the Corporation;
  - 1.12. “Division” means a Division of the Fire Department as provided for in this By-law or determined by the Fire Chief;
  - 1.13. “Emergency Management Committee” means the group of municipal officials that are responsible to ensure that local programs and committees are developed as required to enable the emergency management process in accordance with the requirements of the Emergency Management and Civil Protection Act;
  - 1.14. “Firefighters’ Association” means the labour union representing professional firefighters;

- 1.15. "Fire Chief" means the person appointed by Council to act as Fire Chief for the Corporation and is ultimately responsible to Council as defined in the FPPA;
- 1.16. "Fire Coordinator" means the person appointed by the Fire Marshal, under the authority of the FPPA to co-ordinate the Regional mutual aid plans, or the person appointed by the Fire Marshal to act in the absence of the Fire Coordinator;
- 1.17. "Fire Department" means the Corporation's Fire Department (also referred to as Fire and Emergency Services);
- 1.18. "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;
- 1.19. "FPPA" means the Fire Protection and Prevention Act, 1997, S.O., c 4, as may be amended from time to time, or any successor legislation, and any regulation made there under;
- 1.20. "Fire Protection Agreement" is a contract between municipalities, other agencies, individuals, or a company that clearly defines the responsibilities, terms, conditions, and all other aspects of the fire services purchased, provided and/or required;
- 1.21. "Fire Protection Services" includes fire suppression, fire prevention, fire safety education, administration services, training of persons involved in the provision of Fire Protection Services, rescue and emergency services and the delivery of all those services;
- 1.22. "Head of Council" means the person elected at large by voters in The Town of Whitby, identified formally as the Mayor;
- 1.23. "Member" means any defined Firefighter or Officer as per the FPPA and/or any person employed in or appointed to the Fire Department and assigned to undertake Fire Protection Services;
- 1.24. "Municipal Act" means the Municipal Act, 2001, S.O. 2001, c.25, as amended from time to time, or any successor legislation, and any regulation made there under;
- 1.25. "Municipal Control Group" means the Head of Council with designated town staff who co-ordinate and deploy resources to mitigate the impact of a municipal or other large scale emergency incident;

- 1.26. "Mutual Aid" means a program to provide/receive assistance in the case of a major emergency in a municipality, community or area where resources in a municipality, community or area have been depleted, but does not include Automatic Aid;
- 1.27. "Officer" means any member with the rank of Captain or higher;
- 1.28. "Regional" means the Regional Municipality of Durham being the upper tier level of government in a two tier system;
- 1.29. "Rope Rescue" means an environment (open or confined space, high angle or low angle) in which the load is predominately supported by a rope rescue system.
- 1.30. "Specialty Rescue" means rescue response as specified to trench rescue, building collapse, high angle/low angle rope rescue, confined space, ice/water rescue, auto extrication, and hazardous materials response, etc. in accordance with available resources, and/or in accordance with an approved specialty rescue service agreement; and
- 1.31. "Tiered Response Agreement" means a formal written document negotiated between Durham Regional Police Services, Region of Durham Paramedic Services, and Whitby Fire and Emergency Services to establish local protocols for a multi-agency response to a life threatening or public safety incident. The Agreement outlines the capabilities, expectations and limitations of each agency and defines the criteria for participation.

## **2. Establishment**

- 2.1. A department for the Corporation, to be known as the Whitby Fire Department (Fire and Emergency Services), is hereby established and continued under this By-law and the head of this Department shall be known as the Fire Chief.
- 2.2. The goals of the Fire Department shall be those contained within the Departmental Master Fire Plan as presented to Council from time to time.

## **3. Composition**

- 3.1. The Fire Department shall consist of the Fire Chief, Deputy Fire Chiefs, Divisional Chiefs including Platoon Chiefs, Chief Training Officer, and Chief Fire Prevention Officer, Captains, Fire Fighters, Fire Prevention Officers, Training Officers, Administrative personnel, and any other person(s) as may be authorized or considered necessary from time to time by Council or by the CAO on recommendation from the Fire Chief for the Fire Department to perform Fire Protection Services.
- 3.2. There shall be one Fire Chief appointed by By-law.
- 3.3. There shall be two Deputy Fire Chiefs appointed by By-law.

#### **4. Terms and Conditions of Employment**

- 4.1. Subject to the FPPA and the Collective Agreement, the remuneration and other terms and conditions of employment or appointment of the Members that comprise the Fire Department shall be determined by Council or by the CAO acting in accordance with policies and programs established or approved by Council.

#### **5. Organization**

- 5.1. The Fire Department shall be organized into Divisions such as Administration, Suppression, Training, Fire Prevention and Public Education.
- 5.2. The Fire Chief may re-organize; eliminate Divisions; establish other Divisions; may do all or any of these things or any combination of them as may be required to ensure the proper administration and efficient operation of the Fire Department and the effective management of Fire Protection Services for the Corporation.
- 5.3. The Fire Chief may assign or re-assign such Members to a Division to assist him in the administration and operation of that Division.

#### **6. Core Services**

- 6.1. The core services of the Fire Department shall be those contained in Appendix "A".

#### **7. Responsibilities and Authority of Fire Chief**

- 7.1 The Fire Chief shall be the head of the Fire Department and is ultimately responsible to Council, through the CAO, for proper administration and operation of the Fire Department including the delivery of Fire Protection Services.
- 7.2 The Fire Chief shall report to the CAO and will perform the duties of the CEMC under the authority of the EMCP.
- 7.3 The Fire Chief shall be authorized to make such general orders, policies, procedures, rules and regulations and to take such other measures as the Fire Chief may consider necessary for the proper administration and efficient operation of the Fire Department and the effective management of Fire Protection Services for the Corporation and for the prevention, control and extinguishment of fires, the protection of life and property and the management of emergencies and without restricting the generality of the foregoing;
  - a) For the care and protection of all property belonging to the Fire Department;

- b) For arranging for the provision and allotment of strategic staffing and facilities, apparatus, equipment, materials, services and supplies for the Fire Department;
- c) For the development and implementation of automatic aid, mutual aid and other fire protection and emergency service agreements within the Corporation's borders and/or within the municipal borders of adjoining municipalities upon the approval of Council;
- d) For determining and establishing the qualifications and criteria for employment or appointment, and the duties of, all members of the Fire Department;
- e) For the conduct and the discipline of members of the Fire Department;
- f) For preparing, and upon approval by Council, implementing and maintaining a departmental fire service plan and program for the Corporation;
- g) For keeping an accurate record of all fires, rescues and emergencies responded to by the Fire Department and reporting of same to the Office of the Fire Marshal;
- h) For keeping such other records as may be required by Council, the Corporation and the FPPA;
- i) For preparing and presenting an annual report of the Fire Department to Council; and
- j) For exercising control over the budget approved by Council for the Fire Department.

7.4 The Fire Chief is authorized to perform the duties of Regional Fire Coordinator as required.

## **8. Supervision – General Duties and Responsibilities**

8.1. The Deputy Fire Chief(s) shall be the second ranking officer of the Fire Department and shall be subject to and shall perform such duties as are assigned to him or her by the Fire Chief and shall act on behalf of the Fire Chief in case of absence or vacancy in the office of Fire Chief.

## **9. Emergency Responses Outside Limits of the Town of Whitby**

9.1. The Fire Department shall not respond to a call with respect to a fire or an emergency incident outside the limits of the Town of Whitby except with respect to a fire or an emergency;

- a) that in the opinion of the Fire Chief threatens property in the Town of Whitby or property situated outside the Town of Whitby that is owned or occupied by the Corporation;
- b) in a municipality with which an agreement has been entered into to provide fire protection services,
- c) on property with respect to which an agreement has been entered into with any person or corporation to provide fire protection therefore;
- d) at the discretion of the Fire Chief, to a municipality authorized to participate in the Durham Region Mutual Aid plan established by the Regional Fire Coordinator appointed by the Ontario Fire Marshal, emergency fire service plan and program or any other organized plan or program on a reciprocal basis;
- e) on those highways that are under the jurisdiction of the Ministry of Transportation or other agency within the Town of Whitby for which an automatic aid agreement has been entered into.
- f) on property beyond the Town of Whitby's border where the Fire Chief or his or her designate determines that immediate action is necessary to preserve and protect life and/or property and the correct department is notified to respond and/or assumes command or establishes alternative measures acceptable to the Fire Chief or designate; or
- g) response due to a request for special assistance as required through a declaration of a provincial or federal emergency and such request has been approved by the Fire Chief, the CAO and the Head of Council.

## **10. Enforcement and Penalties**

10.1. Any person who violates any provisions of this By-law is, upon conviction, guilty of an offence and shall be liable to a fine, subject to the provisions of the Provincial Offences Act, R.S.O. 1990, c. P.33, as amended.

## **11. Short Title**

11.1. This By-law shall be known as the Fire Department Establishing and Regulating By-law.

## **12. Repeal of Existing By-law**

12.1. By-law No. 4202-98, By-law No. 6078-08, and By-law 6834-14 are hereby repealed.

## **13. Effective Date**

13.1. This By-law shall come into force and effect on the day it is passed.

By-law read and passed this 2nd day of October, 2017.

## **Appendices**

### **Appendix A**

Fire Department Core Services

Original Approved and Signed.

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Don Mitchell, Mayor

Original Approved and Signed.

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Christopher Harris, Town Clerk



## **Appendix “A” to By-law No. 7263-17**

### **Core Services**

#### **Fire Suppression and Emergency Response**

1. Fire suppression services shall be delivered in both offensive and defensive modes as required and shall include search and rescue operations, forcible entry, ventilation, protection of exposures, and salvage and overhaul as appropriate.
2. Emergency pre-hospital care responses and services shall be provided as per protocol as instituted in accordance with the Tiered Response Services Agreement.
3. Special technical and/or rescue response services provided by Whitby Fire Department shall include performing automobile and/or equipment extrication using hand tools, air bags, and heavy hydraulic tools as required, slope rescue, static water/ice rescue, hazardous materials response (Operations Level), and elevator rescue (not to exceed Operations Level) in accordance with available resources.
4. Other technical and/or specialized rescues response services (including trench rescue, rope rescue (not including slope rescue), building collapse, confined space, swift water, etc.) shall not be provided by the Whitby Fire Department beyond the Awareness level. Notwithstanding, Council may approve a specialized rescue service agreement to allow these services to be provided by an agency or Department at a higher level as necessary.

#### **Training**

1. The National Fire Protection Association (NFPA) Standards and other related industry training standards and reference materials shall be used as reference guides for Whitby Fire Department Training Division as approved by the Fire Chief. All training will comply with the Occupational Health and Safety Act, R.S.O. 1190, c. O.1, as amended and applicable provincial legislation.

#### **Fire Prevention**

1. Inspections arising from complaint, request, retrofit, or self-initiated; fire investigations; and examination and review of fire protection elements of building permit plans shall be provided in accordance with the FPPA and Departmental policies.

#### **Fire and Life Safety Education**

1. Public education programs shall be administered in accordance with the FPPA and Departmental policies.