Agenda - Council - March 21, 2007

Report - Standing Policy Committee on Protection and Community Services - March 5, 2007

Item No. 5 Amendment to The Fire Prevention By-law No. 150/2004
File GF-5

STANDING COMMITTEE RECOMMENDATION:

On March 14, 2007, the Executive Policy Committee concurred in the recommendation of the Standing Policy Committee on Protection and Community Services and submits the following to Council:

1. That The Fire Prevention By-law No. 150/2004 be amended as follows:

   A. To require a $250.00 administration fee for the filing of an appeal to an Order, refundable at the discretion of the Standing Policy Committee on Protection and Community Services.

   B. To exempt the City from the inspection fees outlined in the By-law for buildings that it owns.

   C. To revise Schedule "D" of The Fire Prevention By-law No. 150/2004 in light of the adoption of a new Manitoba Fire Code.

   D. To revise a rule regarding open air fires.

2. That the amendments to The Fire Prevention By-law No. 150/2004, as outlined in the report of the Acting Fire and Paramedic Chief dated February 20, 2007, be enacted.

3. That the City Solicitor/Manager of Legal Services be requested to prepare the necessary by-law in accordance with the foregoing and submit same directly to Council.

4. That the Proper Officers of the City be authorized to do all things necessary to implement the intent of the foregoing.

Report - Standing Policy Committee on Protection and Community Services - March 5, 2007

DECISION MAKING HISTORY:

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On March 14, 2007, the Executive Policy Committee concurred in the recommendation of the Standing Policy Committee on Protection and Community Services and submitted the matter to Council.

STANDING COMMITTEE RECOMMENDATION:

On March 5, 2007, the Standing Policy Committee on Protection and Community Services concurred in the administrative recommendation and submitted the matter to the Executive Policy Committee and Council.

RE: AMENDMENT TO THE FIRE PREVENTION BY-LAW

FOR SUBMISSION TO:	Standing Policy Committee on Protection & Community Services
ORIGINAL REPORT SIGNED BY:	J.R. (Jim) Brennan A/Fire & Paramedic Chief
REPORT DATE:	February 20, 2007

RECOMMENDATION:

1. That the Fire Prevention By-law No. 150/2004 be amended as follows:
   A. To require a $250 administration fee for the filing of an appeal to an Order, refundable at the discretion of the Standing Policy Committee on Protection and Community Services.
   B. To exempt the City from the inspection fees outlined in the By-law for buildings that it owns.
   C. To revise Schedule "D" of the By-law in light of the adoption of a new Manitoba Fire Code.
   D. To revise a rule regarding open air fires.

2. That Council enact the attached amendments to the City of Winnipeg Fire Prevention By-law No. 150/2004.

3. That the proper Officers of the City be authorized to do all things necessary to implement the foregoing.

Report Summary

Key Issues:

- Imposition of a $250 administration fee to be paid with the filing of an appeal, refundable at the discretion of Standing Policy Committee on Protection and Community Service.
- The administration is recommending the cutting of "red tape" by recognizing that there is no value to the City to be charging itself fees for inspections of buildings it owns.
- Schedule "D" of the By-law should be amended to ensure that the correct Manitoba Fire Code articles, sections, and subsections are referenced.
- Wording with respect to open air recreational burning should be amended to preclude the City's involvement in neighbour disputes.

Implications of the Recommendation(s):

General Implications

(X) None

( )

Policy Implications

( ) No

(X) Yes

Comment(s): The recommendation to amend the by-law to exempt the Real Estate Division from paying fees to the Fire Paramedic Service recognizes that internal red tape is created when the City charges itself fees, clarifies the issue administratively and is consistent with other City by-laws which contain similar provisions.

Regulatory Implications

( ) None

(X) Increases regulatory impact

Comment(s): The recommendation to amend the by-law to require a $250 fee to be paid with the filing of an appeal, refundable at the discretion of Standing Policy Committee on Protection and Community Services, will marginally increase the regulatory impact.

(X) Decreases regulatory impact

Comment(s): The appeal fee will also discourage frivolous appeals and may reduce “internal red tape.”

Environmental Implications

(X) No

( ) Yes

Human Resources Implications

(X) No

( ) Yes

Financial Implications

(X) No

() Yes

Comment(s): The recommendation to exempt the Real Estate Division from the payment of inspection fees will be revenue and cost neutral.

Report

REASON FOR THE REPORT:

The Report proposes amendments to the Fire Prevention By-law which can only be enacted by Council.

HISTORY:

Council enacted a new Fire Prevention By-law No. 150/2004, which came into effect on January 1, 2005. The by-law sets out standards and requirements with respect to fire and life safety and stipulates fees to cover the costs of a variety of inspections and permits.

Since its implementation, the by-law has been amended to include additional requirements and to clarify some of the technical aspects of the by-law.

DISCUSSION:

Costly and frivolous appeals:
The right of appeal, and the right to exercise that appeal, are established in the By-law pursuant to the requirements of *The City of Winnipeg Charter.* Currently, the owner of a building which is in contravention of the Fire Prevention By-law incurs no cost or risk in filing an appeal and benefits with the time it takes to process the appeal for hearing. This results in several weeks or months delay in complying with an Order even if the appeal is unsuccessful. There are however, costs to the City. Every appeal takes up hours of time on the part of Fire Prevention Branch staff, whose Order is appealed, for the City Clerk's Office, as well as the time spent by Councillors on the Standing Policy Committee hearing the appeal. In order to more fairly address the issue of costs, this Report recommends that a refundable fee of $250 be imposed on appeals under the By-law. This fee would help defray the costs associated with an appeal. After hearing the appeal, if the Standing Policy Committee decided that the appeal was legitimate and not frivolous, it would have the option of ordering the appeal fee refunded to the appellant. It should also be noted that this provision already exists with the Vacant and Derelict Buildings By-law.

Inspection fees for City owned Buildings:
The By-law currently imposes an inspection fee of $75 for every second and subsequent re-inspection to check on compliance with a violation notice or Order. The Fire Paramedic Service has not imposed this fee on buildings owned by the City's Real Estate Division as this would simply be a matter of the City charging itself fees. This would in turn only generate red tape. In order to clarify this matter administratively, the

wording in the By-law should be amended to specifically exempt the Real Estate Division from inspection fees for buildings it owns.

Manitoba Fire Code references:
Among other things, Schedule ”D” of the By-law establishes qualifications for service personnel who inspect, test and maintain fire protection systems such as fire alarms, sprinklers, fire extinguishers, etc. Many of the qualifications are set out in accordance with articles, sections and subsections of the Manitoba Fire Code. With the adoption of a new Manitoba Fire Code on November 1, 2006, various reference numbers in the code have changed. Therefore, Schedule “D” of the By-law should be amended to ensure that the correct articles, sections and subsections are referenced by the By-law.

Residential Open Air Burning:
The By-law sets out rules and requires permits and fees for most types of outdoor fires. Recreational fires within approved receptacles on residential properties are exempt from permits and fees. In recent years there has been a significant increase in recreational burning in back yard fire pits and similar receptacles that had necessitated formal regulations to allow residents to enjoy fires in the outdoors in a safe manner. It should be noted that prior to the passage of the By-law and the regulations concerning recreational burning, the public had insisted on the right to enjoy their back yards and conduct recreational burning.

Since the passage of the By-law a number of situations have arisen in which recreational burning in back yard fire pits has created disagreements and disputes among neighbors. This typically involves complaints of smoke that is generated by recreational burning. The By-law currently states that a fire is not to be set or maintained in a condition or location that will or could result in smoke which causes a nuisance or irritation to people on adjacent properties. The By-law also currently stipulates that only clean, dry wood can be burnt. The latter stipulation is in place to minimize the amount of smoke created by a fire pit and to minimize the impact on adjacent properties. Smoke from indoor wood burning fireplaces, stubble burning and the like often has a much greater impact than the smoke created from a back yard fire pit. The rules for recreational burning should be more objective in an effort to avoid any neighborhood disputes. As the current wording in the By-law is somewhat discretionary, this report is recommending that the current reference in the By-law to *nuisance* and *irritation* be removed.

Financial Impact Statement

Date: February 20, 2007

Project Name:

Amendment to the Fire Prevention By-Law

First Year of Program **2007**

	2007	2008	2009	2010	2011
Capital					
Capital Expenditures Required	$ -	$ -	$ -	$ -	$ -
Less: Existing Budgeted Costs	-	-	-	-	-
Additional Capital Budget Required	$ -	$ -	$ -	$ -	$ -
Funding Sources:					
Debt - Internal	$ -	$ -	$ -	$ -	$ -
Debt - External	-	-	-	-	-
Grants (Enter Description Here)	-	-	-	-	-
Reserves, Equity, Surplus	-	-	-	-	-
Other - Enter Description Here	-	-	-	-	-
Total Funding	$ -	$ -	$ -	$ -	$ -
Total Additional Capital Budget Required	$ -				
Total Additional Debt Required	$ -				
Current Expenditures/Revenues					
Direct Costs	$ 1,500	$ 1,500	$ 1,500	$ 1,500	$ 1,500
Less: Incremental Revenue/Recovery	1,500	1,500	1,500	1,500	1,500
Net Cost/(Benefit)	$ -	$ -	$ -	$ -	$ -
Less: Existing Budget Amounts	-	-	-	-	-
Net Budget Adjustment Required	$ -	$ -	$ -	$ -	$ -

Additional Comments: An average of 6 appeals a year are estimated. The administrative fee is intended to offset additional administrative expenses.

Original signed by

Manager of Finance & Administration

6050

IN PREPARING THIS REPORT THERE WAS:

Internal Consultation With and Concurrence By:

Corporate Services Department, Legal Services Division

External Consultation With:

THIS REPORT SUBMITTED BY:

Department: Fire Paramedic Service
Division: Fire Prevention Branch
Prepared by: Peter Kloos, Director of Fire Prevention
File No.

Approved:

Original signed by

_____

J.R. (Jim) Brennan
A/Fire & Paramedic Chief

THE CITY OF WINNIPEG

BY-LAW NO. .

A By-law of THE CITY OF WINNIPEG to amend the Fire Prevention By-law No. 150/2004.

THE CITY OF WINNIPEG, in Council assembled, enacts as follows:

Fire Prevention By-law amended

1. The Fire Prevention By-law No. 150/2004 is amended by this By-law.

Section 6 amended

2. Section 6 is amended

(a) by renumbering it as subsection 6(1); and

(b) by adding the following immediately after subsection 6(1):

Administration fee imposed

6(2) Subject to subsections (3) and (4), an administration fee of $250.00 is hereby imposed for each appeal made under subsection (1).

Appeal not filed until fee paid

6(3) No appeal may be accepted by the City Clerk until the fee imposed by subsection (2) has been paid to the City Clerk.

Refund of administration fee

6(4) The Standing Policy Committee on Protection and Community Services may order an administration fee referred to in subsection (2) to be refunded to the appellant if the appeal has been made in good faith and has some merit.

Section 24 amended

2. Subclause 24(1)(d)(i) is repealed.

Section 55 amended

3. Section 55 is amended by

(a) striking out *"The inspection fees"* in subsection (1) and substituting *Subject to subsections (1.1), the inspection fees"*;

(b) adding the following immediately after subsection (1):

(1.1) The Chief may waive an inspection fee set out in Schedule "A" in respect of a property owned or leased by the City of Winnipeg.

(c) adding the heading *"**Public education services fees**"* immediately before subsection (3).

Schedule "D" replaced

4. Schedule "D" is repealed and the schedule set out as Schedule "D" to this By-law is substituted:

DONE AND PASSED, in Council assembled, this day of , 2007.

_____
Mayor

_____
City Clerk

Approved as to content:

_____
Director of

Certified as to form:

_____
for City Solicitor/Manager of
Legal Services

SCHEDULE "D"

Fire Protection/Life Safety Installation	Label Location	Action Required	**Service Personnel Qualifications**
Fire Alarm System	In a visible location on the main fire alarm control unit.	Immediately following annual test and inspection (see Manitoba Fire Code section 6.3 and ULC-S536, "Inspection and Testing of Fire Alarm Systems") and upon Verification of a Fire Alarm System.	Set out in Manitoba Fire Code article 6.3.1.5.
Emergency Power System	In a visible location on the transfer switch. If no transfer switch exists, then on the generator.	Immediately following annual test and inspection (see Manitoba Fire Code section 6.5 and CAN/CSA C282-O, "Emergency Electrical Power Supply for Buildings").	Certification by a manufacturer of emergency power systems.
Firefighters Elevators	In a visible location adjacent to the Department of Labour elevator certificate and in a manner so as not to obscure the certificate.	Immediately following every 4th test and inspection required by Manitoba Fire Code, sentence 7.2..1.1.(1) and sentences 7.2.2.1. (1) and (2) and immediately following the emergency power test required by Manitoba Fire Code, sentence 7.2.2.1. (3).	Elevator Mechanic licence issued by International Union of Elevator Constructors ***or*** an Electrician's License Class M (Elevating Devices) issued by the Province of Manitoba.
Unit Equipment for Emergency Lighting	In a visible location on each battery pack.	Immediately following annual test and inspection (see Manitoba Fire Code subsection 6.5).	Set out in Manitoba Fire Code article 6.3.1.5.

Fire Pump	In a visible location on controller. If no controller, then on fire pump.	Immediately following annual test and inspection (see Manitoba Fire Code subsection 6.4.1.).	Sprinkler System Installer licence issued by the Province of Manitoba.
Sprinkler System (more than 9 heads)	In a visible location at each main control valve.	Immediately following annual test and inspection (see Manitoba Fire Code subsection 6.4.1.).	Sprinkler System Installer licence issued by the Province of Manitoba.
Hose System	In a visible location on female hose coupling or inside hose cabinet.	Immediately following each annual inspection and every service test (see Manitoba Fire Code subsection 6.4.1. and NFPA 1962 "Care, Use and Service Testing of Fire Hose Including Couplings and Nozzles").	Sprinkler System Installer licence issued by the Province of Manitoba ***or*** certified servicing agency as set out in Manitoba Fire Code article 6.2.1.2.
Standpipe System	In a visible location at top of riser at most remote valve in vicinity of pressure gauge.	Immediately following 5 year test and inspection (see Manitoba Fire Code subsection 6.4.1. and NFPA 25, "Inspection, Testing and Maintenance of Water-Based Fire Protection Services").	Sprinkler System Installer license issued by the Province of Manitoba.
Heating System – Fuel-Fired other than Wood Burning	In a visible location on each heating system unit **or** in the case of a Condominium Corporation labels may be filed with the Property Management firm for the Condominium Corporation.	Immediately following annual test and inspection (see Manitoba Fire Code article 2.6.1.6.).	Gas Fitter licence issued by Province of Manitoba.

Heating System – Wood Burning	In a visible location in the vicinity of the appliance **or** in the case of a Condominium Corporation labels may be filed with the Property Management firm for the Condominium Corporation.	Immediately following annual test and inspection (see Manitoba Fire Code article 2.6.1.6.).	To be established by the Chief pursuant to section 37 of By-law.
Smoke Control System (For High Buildings as defined in Subsection 3.2.6. of the Manitoba Building Code)	In a visible location on each fan.	Immediately following 2 year test and inspection (see Manitoba Fire Code section 7.3.).	Certified technician through the Canadian Associated Air Balance Council.
Special Extinguishing Systems – Water Based	In a visible location on each main control valve.	Immediately following annual test and inspection (see Manitoba Fire Code article 2.1.3.5. and NFPA 11, " Low Expansion Foam", NFPA 11A, "Medium and High-Expansion Foam Systems"; NFPA 15, "Water Spray Fixed Systems for Fire Protection"; NFPA 16, "Installation of Foam-Water Sprinkler and Foam-Water Spray Systems"; NFPA 18, "Wetting Agents").	Sprinkler System Installer license issued by the Province of Manitoba.
Special Extinguishing Systems – Wet & Dry Chemical	In a visible location on each main control valve.	Immediately following annual test and inspection (see Manitoba Fire Code article 2.1.3.5. and NFPA 17, "Dry Chemical Extinguishing Systems"; NFPA 17A,	A certificate of training, acceptable to a *designated employee*, from a public post secondary educational

		"Wet Chemical Extinguishing Systems").	institution, **or** certification in accordance with ULC/ORD-C1254.18, "The Servicing of Restaurant Cooking Area Extinguishing Systems", **or** a current certificate of training from the manufacturer of the specific Wet or Dry Chemical Extinguishing System.
Special Extinguishing Systems – Gas Based	In a visible location on each main control valve.	Immediately following annual test and inspection (see Manitoba Fire Code article 2.1.3.5. and NFPA 12, "Carbon Dioxide Extinguishing Systems"; NFPA 12A, " Halon 1301 Fire Extinguishing Systems"; NFPA 12B, "H1211 Fire Extinguishing Systems").	Set out in the Manitoba Fire Code article 6.3.1.5. **and** employed by a company approved as an authorized service agency by any manufacturer of a gas-based fire suppression system.
Commercial Cooking Equipment – Inspection	In a visible location in the kitchen area.	Immediately following 6 month inspection (see Manitoba Fire Code article 2.6.1.9. and NFPA 96, "Ventilation Control and Fire Protection Commercial Cooking Operations").	IKECA (International Kitchen Exhaust Cleaning Association) – Certified Exhaust Cleaning Specialist (CECS) **or** Phil Ackland's Exhaust Cleaning – Kitchen Exhaust Cleaning Certification **or** CHDCA (Certified Hood & Duct Cleaners Association) – Hood & Duct Cleaner Certification.

Commercial Cooking Equipment – Cleaning	In a visible location in the kitchen area.	Immediately following every required cleaning (see Manitoba Fire Code article 2.6.1.9. and NFPA 96, "Ventilation Control and Fire Protection Commercial Cooking Operations").	IKECA (International Kitchen Exhaust Cleaning Association) – Certified Exhaust Cleaning Specialist (CECS) **or** Phil Ackland's Exhaust Cleaning – Kitchen Exhaust Cleaning Certification **or** CHDCA (Certified Hood & Duct Cleaners Association) – Hood & Duct Cleaner Certification.
Private Hydrants	In a visible location on the hydrant.	Immediately following annual test and inspection (see Manitoba Fire Code subsection 6.4.1.).	Sprinkler-System Installer license issued by the Province of Manitoba.

NOTE: **The Manitoba Fire Code, Part 1 contains details of the agencies that have issued the documents listed in this chart**.