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<b>TO:</b>	<b>CHAIR AND MEMBERS COMMUNITY &amp; PROTECTIVE SERVICES COMMITTEE MEETING ON NOVEMBER 11, 2013</b>
<b>FROM:</b>	<b>JOHN KOBARDA FIRE CHIEF, LONDON FIRE DEPARTMENT</b>
<b>SUBJECT:</b>	<b>FEEES FOR FIRE PREVENTION OFFICE SERVICES</b>

<b>RECOMMENDATION</b>
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That on the recommendation of the Fire Chief with the concurrence of the Managing Director, Neighbourhood, Children & Fire Services, the attached proposed by-law (Appendix "A") BE INTRODUCED at the Municipal Council meeting on November 19, 2013 to amend By-law No. F-6 entitled "A by-law to continue and regulate a Fire Department" by deleting and replacing Section 14 – Owner Required to take Necessary Actions to provide a mechanism to allow for the recovery of extraordinary costs related to any actions the Fire Services are required to undertake, as a result of an incident that has occurred due to the failure of an owner to undertake the necessary steps to prevent a fire from occurring.

<b>PREVIOUS REPORTS PERTINENT TO THIS MATTER</b>
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- None

<b>BACKGROUND</b>
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The *Fire Protection and Prevention Act, 1997* (FPPA) states that it is the duty of the Fire Marshal "to investigate the cause, origin and circumstances of any fire or of any explosion or condition that in the opinion of the Fire Marshal might have caused a fire, explosion, loss of life or damage to property". The Office of the Ontario Fire Marshal has advised all Ontario municipalities in Public Fire Safety Guideline 04-52-03; issued pursuant to Clause 9 (1) (d) of the *Fire Protection and Prevention Act, 1997* (FPPA), that "the Office of the Fire Marshal only investigates fires where there is a provincial interest. The fire services have the responsibility to investigate all other fire occurrences within their jurisdiction." In addition, the Office of the Ontario Fire Marshal, pursuant to Clause 9 (1) (a) of the FPPA recommended that The Corporation of the City of London "use available fire loss information to assess where gaps may exist in service delivery and undertake or re-evaluate program effectiveness/delivery to address issues and trends". The City of London, as stated in By-Law No. F-6, similarly lists fire investigations as a fire protection service that will be provided within the municipality.

The determination of the cause, origin and circumstances of a fire is often a complex investigation involving a myriad of municipal and provincial organizations; including but not limited to the building department, local police service, Office of the Ontario Fire Marshal, Electrical Safety Authority and Technical Standards and Safety Authority. The results of fire investigations often support criminal investigations, death investigations and environmental investigations. Fire investigations frequently result in members of the fire department participating and supporting Provincial and Criminal Code trials as well as civil litigation and Corner's Inquests.

The investigation sometimes requires retaining private contractors, subject experts and the rental of special equipment to facilitate the investigation and make the workplace safe for the investigator(s) as required by the Occupational Health and Safety Act. Although the insurance company often covers these expenses, municipalities have in the past been burdened with the responsibility of paying for these extraordinary costs. The FPPA does not provide municipalities with a specific legal instrument to recovery costs incurred during fire investigations and as a result, a number of municipalities; including Mississauga, Oshawa, Barrie and Niagara Falls

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have enacted by-laws to provide a mechanism for cost recovery. The Office of the Ontario Fire Marshal, in Public Fire Safety Guideline 04-80-01; issued pursuant to Clause 9 (1) (d) of the FPPA, states that “user fees should be encouraged if they have the potential to impact public fire/life safety” and “are a viable option to help defray appropriate operating costs”. The user fee proposed for extraordinary expenses incurred during fire investigations meets the intent of Ontario Public Fire Safety Guideline 04-08-01.

The proposed fees related to the cost recovery being proposed by the amendment to By-law No. F-6 will be contained in an amended Fees and Charges By-law to be brought forward in December 2013.

**Financial Impact**

The by-laws do not have a financial impact on the fire department and, in fact, may assist the fire department through the avoidance of future costs incurred during the investigation of unusual fires.

<b>SUMMARY</b>
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As a result of the emphasis by the Office of the Ontario Fire Marshal for municipalities to increase their focus on fire prevention activities, including the investigation of fires, it is appropriate and fiscally responsible to provide the municipality a mechanism to recover extraordinary costs incurred during the execution of their duty.

<b>PREPARED BY:</b>	<b>RECOMMENDED BY:</b>
<b>JIM JESSOP DEPUTY FIRE CHIEF</b>	<b>JOHN KOBARDA FIRE CHIEF</b>
<b>REVIEWED &amp; CONCURRED BY:</b>	
<b>LYNNE LIVINGSTONE MANAGING DIRECTOR, NEIGHBOURHOOD, CHILDREN &amp; FIRE SERVICES</b>	

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**APPENDIX “A”**

Bill No.  
2013

By-law No. F-

A By-law to amend By-law F-6 entitled, “A by-law to continue and regulate a Fire Department” to provide for a mechanism to allow for the recovery of extraordinary costs related to any actions the Fire Services are required to undertake, as a result of an incident that has occurred due to the failure of an owner to undertake the necessary steps to prevent a fire from occurring.

WHEREAS subsection 5(3) of the *Municipal Act, 2001* S.O. 2001, c.25, provides that a municipal power shall be exercised by by-law;

AND WHEREAS subsection 8(1) of the *Municipal Act, 2001* provides that the powers of a municipality under this or any other Act shall be interpreted broadly so as to confer broad authority on the municipality to enable the municipality to govern its affairs as it considers appropriate and to enhance the municipality’s ability to respond to municipal issues;

AND WHEREAS subsection 8(3) of the *Municipal Act, 2001* provides that a by-law under section 10 respecting a matter may (b) require persons to do things respecting the matter;

AND WHEREAS subsection 10 of the *Municipal Act, 2001* provides that a municipality may provide any service or thing that the municipality considers necessary or desirable for the public, and may pass by-laws respecting the following matters: 6. Health, safety and well-being of persons; 7. services and things that the municipality is authorized to provide; 8. Protection of persons and property; 10. Structures;

AND WHEREAS section 446 of the *Municipal Act, 2001* provides that, if a municipality has the authority under this or any other Act or under a by-law under this or any other Act to direct or require a person to do a matter or thing, the municipality may also provide that, in default of it being done by the person directed or required to do it, the matter or thing shall be done at the person’s expense, and that the municipality may enter upon land at any reasonable time, and that the municipality may recover the costs of doing a matter or thing from the person directed or required to do it by action or by adding the costs to the tax roll and collecting them in the same manner as property taxes;

AND WHEREAS the *Fire Protection and Prevention Act, 1997*, S.O. 1997, c.4 provides in Part V for the rights of entry in fire investigations;

NOW THEREFORE the Municipal Council of The Corporation of the City of London enacts as follows:

1. That By-law No. F-6 being “A By-law to continue and regulate a Fire Department: is hereby amended by deleted Section 14 in its entirety and by replacing it with the following new section 14:

**”Owner Required to Take Necessary Actions**

14 (a) The owner of a property is required to take any necessary actions required by the Fire Chief, or such other officer or Member as may be designated from time to time by the Fire Chief, with respect to Fire Protection Services (including but not limited to: prevention of fires; boarding up or barricading buildings, structures or things; retaining a private contractor; renting special equipment not normally carried on a fire apparatus; preserving property; preventing a fire from spreading; providing specialized rescue services; controlling and eliminating an emergency;

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preventing damage to equipment owned by or contracted to the City; making safe an incident or property).

(b) Where the owner does not take the necessary actions set out in 14(a), or where the owner cannot be located, the Fire Chief or such other officer or Member as may be designated from time to time by the Fire Chief, may authorize the work to be done at the owner's expense.

(c) The City may recover the costs of doing the work in subsection 14(b) from the owner: (i) by action or by adding the costs to the tax roll and collecting them in the same manner as property taxes, in accordance with the *Municipal Act, 2001*; or (ii) as a fee or charge if set out in a fees and charges by-law; or (iii) in the manner provided in the *Fire Protection and Prevention Act, 1997*."

2. This by-law shall come into force and effect on November 19, 2013.

PASSED in Open Council on \_\_\_\_\_, 2013.

Joe Fontana  
Mayor

Catharine Saunders  
City Clerk

First Reading -  
Second Reading –  
Third Reading –