

**A BY-LAW RESPECTING THE ESTABLISHMENT OF
THE SUSSEX FIRE DEPARTMENT AND
THE PREVENTION AND EXTINGUISHMENT OF FIRES**

BY-LAW # 350-12

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The Council of the Town of Sussex under the authority vested in it by section 109 of the Municipalities Act, R.S.N.B. 1973 being c.M-22 revised statutes of New Brunswick 1973 and amendments thereto duly assembled hereby enacts as follows:

I. TITLE

1. This by-law may be cited as the “Town of Sussex Fire Prevention By-Law”.

II. DEFINITIONS

2. In this by-law, unless the context otherwise requires,

(a) *“Assistance Response”* means;

- First response to medical emergencies
- Fire response to accidents, natural or man-made disasters, escapes of hazardous materials or other circumstances that have caused or cause harm to persons or property; or
- Rescue operations including:
 - Auto Extrication
 - Basic Remote Rescue
 - Water Rescue
 - Heavy Rescue.

(b) *“Chief Administrative Officer”* means the Chief Administrative Officer of the Town of Sussex;

(c) *“Clerk”* means the Clerk of the Town of Sussex;

- (d) *“Council”* means the Council of the Municipality;
- (e) *“Department”* means the Sussex Fire Department;
- (f) *“Fire Chief”* means Fire Chief of the Department;
- (g) *“Fire Prevention Act”* means the Fire Prevention Act, Chapter F-13 of the Revised Statutes of New Brunswick and Regulations thereunder;
- (h) *“Fire Prevention Officer”* means a person duly appointed a Fire Prevention Officer by the Council of the Town of Sussex and approved by the Fire Marshall’s Office and includes the Fire Chief;
- (i) *“Mayor”* means the Mayor of the Town of Sussex;
- (j) *“Order”* means an order made under authority of this by-law by the Fire Chief or a Fire Prevention Officer;
- (k) *“Police Officer”* means:
 - a member of the Royal Canadian Mounted Police;
 - a police officer appointed under Section 10, 11, or 17.3 of the Police Act;
 - an auxiliary police officer or an auxiliary police constable appointed under Section 13 of the Police Act, when accompanied by or under the supervision of a member of the Royal Canadian Mounted Police;
- (l) *“Public Services”* means public information, education and prevention programs, as they relate to fire safety, public safety, and emergency preparedness.
- (m) *“Town”* means the Town of Sussex;
- (n) *“Treasurer”* means the Treasurer of the Town of Sussex;

- (o) *“Plural terms”* may apply whenever the singular, masculine or feminine is used in this by-law and it shall be considered as if the plural, feminine or masculine has been used where the context of the party or parties hereto so requires; and
- (p) *“Volunteer Firefighter”* means firefighter.

III. FIRE DEPARTMENT

- 3. The Council hereby establishes the Sussex Fire Department and the head of the Department shall be known as the Fire Chief.
- 4. The Council shall appoint a Fire Chief who shall be, ex officio, a fire prevention officer for the Department.
- 5. The Department personnel, in addition to the Fire Chief, shall consist of a deputy fire chief and volunteer firefighters.
- 6. The Council may appoint any qualified person as a volunteer firefighter of the Department, or as a Fire Prevention Officer, or both on the recommendation of the Fire Chief.
- 7. The Council shall from time to time by Council resolution determine the total number of volunteer firefighters for the Department.
- 8. The Council shall determine from time to time the remuneration of all volunteer firefighters of the Department.

IV. EMPOWERMENT

- 9. The Sussex Fire Department is empowered to provide the following services:
 - a. Fire Protection
 - b. Assistance Response
 - c. Mutual Aid; and
 - d. Public Services

V. FIRE CHIEF

10. The Fire Chief is responsible to the Council through the Chief Administrative Officer for the proper administration and operation of the Department and for the discipline of its firefighters and the Fire Chief:
 - (a) shall subject to the direction of the Council, divide the volunteer firefighters into companies;
 - (b) shall appoint as many platoon captains and other officers from among the volunteer firefighters as he/she deems necessary;
 - (c) may make such general orders and departmental rules as may be necessary for the care and protection of the property of the Department, for the conduct of the firefighters of the Department and generally for the efficient operation of the Department, provided that such general orders and rules do not conflict with the provisions of any by-law of the Town;
 - (d) shall review periodically the policies and procedures of the Department and make recommendations to the Council;
 - (e) shall take all proper measures for the prevention , control and extinguishment of fires and for the protection of life and property and shall enforce all municipal by-laws respecting fire prevention and exercise the powers and duties imposed on him by the Fire Prevention Act;
 - (f) shall be responsible for the enforcement of this by-law and the general orders and departmental rules;
 - (g) shall report all fires to the Fire Marshal as required by the Fire Prevention Act;
 - (h) shall assist in the submission to the Council for Council's approval the annual estimates of the Department;

- (i) shall make an annual report to the Council of the activities of the Fire Department during the preceding year including all calls answered by the Fire Department, all fires, an estimate of the loss sustained and the insurance coverage of each fire, an inventory of the fire fighting equipment, names of all members of the Fire Department and recommendations to promote the efficiency of the Fire Department;
- (j) shall have full charge and sole command over the conduct of all persons at the fire whether they are members of the Fire Department or not;
- (k) shall assign to the firefighters their regular duties and other duties they deem proper;
- (l) shall make or cause to be made a record of the attendance of all firefighters at each fire;
- (m) may suspend any member of the Department for neglect of duty, misconduct or breach of any by-law or regulation and shall forthwith report the suspension to the Council; and
- (n) shall recommend to Council the dismissal of a volunteer firefighter, for just cause.

VI. DEPUTY FIRE CHIEF

11. While on duty, a deputy fire chief:

- (a) shall respond promptly to all fire alarms;
- (b) shall obey all lawful orders of the fire chief; and
- (c) shall in the absence of the fire chief, have all the power and perform all the duties of the fire chief.

VII. VOLUNTEER FIREFIGHTERS

12. (a) A qualified volunteer firefighter shall reside within the territorial limits protected by the Department.
- (b) A person qualified to be appointed a volunteer firefighter for the Department for firefighting duties:
 - (i) shall have successfully completed at least grade 12 or equivalent;
 - (ii) shall be of good character;
 - (iii) shall pass such aptitude and other tests as may be required by the Fire Chief; and
 - (iv) shall be medically fit to be a member as certified by a physician.
- (c) A person appointed as a volunteer firefighter of the Department for firefighting duties shall be on probation for a period of one (1) year from the date of Council approval.
- (d) If a probationary volunteer firefighter appointed for fire fighting duties fails any such examinations, the Fire Chief may recommend to the Council that they be dismissed.
- (e) When so ordered by the Fire Chief, all volunteer firefighters shall assemble for drill and instruction in the use of firefighting equipment at the time and place specified by the Fire Chief.

VIII. GENERAL

13. Firefighters of the Fire Department shall comply with this by-law and the rules and regulations of the Department.
14. Fire Department vehicles and firefighting equipment shall not be used for any work other than work of the Fire Department without the consent of the Fire Chief.

15.
 - (a) No Fire Department vehicle shall be used for emergency transportation of a person other than a firefighter of the Fire Department, except with the consent of the Fire Chief or the officer in charge.
 - (b) The Fire Chief shall report each emergency trip made under this section within twenty-four hours to the clerk who shall charge such sum as established by Council for each trip.
16.
 - (a) No firefighting equipment shall be taken beyond the limits of the Sussex Fire Department coverage area except with the permission of the Fire Chief or the officer in charge.
 - (b) When any firefighting equipment is taken beyond the limits of the coverage area to any fire, the fire chief or designate shall appoint a member of the Fire Department to take charge of the firefighting equipment.
17. The owner of a structure which has a sprinkler connection shall provide free access for fire vehicles to the building sprinkler connection. The owner shall identify this access by placing no parking signs and installing posts to identify this no parking area.
18. In the absence of the Fire and Deputy Fire Chief a senior officer of the Department shall have all the power and perform all the duties of the Fire Chief.

PREVENTION & EXTINGUISHMENT OF FIRES

IX. FIRE PREVENTION OFFICER

19. (a) A Fire Prevention Officer is subject to directions of the Fire Chief and is charged with the responsibility to enforce this by-law, regulations, the Fire Prevention Act or other laws relating to the prevention and extinguishment of fires.
- (b) A Fire Prevention Officer:
- (i) is empowered to enforce the provisions of this and any other by-law relating to the prevention and extinguishment of fires;
 - (ii) is authorized to enforce the Fire Prevention Act and the regulations made thereunder; and
 - (iii) without limiting the generality of the foregoing, has herewith conferred upon him the same powers under the same conditions as are conferred upon the Fire Marshall by Sections 12,16 and 21 of the Fire Prevention Act.
20. A Fire Prevention Officer or any person authorized in writing by a Fire prevention Officer may, upon complaint of a person interested, or where a Fire Prevention Officer deems necessary without such complaint may at all reasonable times enter and inspect any building or premise within the Town for the purpose of fire prevention or to investigate the cause or origin of a fire.

X. ORDERS

21. (a) An Order of the Fire Prevention Officer or Fire Chief, under terms of this By-Law shall be in writing and signed by the Fire Prevention Officer or Fire Chief for any infractions of this By-Law, regulations, Fire Prevention Act or other laws relating to the prevention and extinguishment of fires.

XI. NOTICE

- (b) Where a condition mentioned in Section 21 (a) exists, a Fire Prevention Officer or Fire Chief, appointed by Council, may notify the owner or occupier of the premises, building or structure and the notice shall
 - (i) be in writing,
 - (ii) be signed by the Fire Prevention Officer or Fire Chief,
 - (iii) state that the condition referred to in subsection 21 (a) exists,
 - (iv) state what must be done to correct the condition,
 - (v) state the date before which the condition must be corrected, and
 - (vi) be served either by personal delivery on the person to be notified or by posting in a conspicuous place on the premises, building or structure.
- (c) Proof of the giving of notice in either manner provided for in subsection 21 (b) (vi) may be by a certificate or an affidavit purporting to be signed by the Fire Prevention Officer or Fire Chief or such other person acting on behalf of the Fire Prevention Officer or Fire Chief referred to in subsection 21 (b), naming the person to whom notice was given and specifying the time, place and manner in which notice was given.
- (d) A document purporting to be a certificate or proof of service under subsection 21 (c) shall be
 - (i) admissible in evidence without proof of signature, and
 - (ii) conclusive proof that the person named in the certificate
 - (iii) received notice of the matters referred to in the certificate.
- (e) In any prosecution for a violation of this by-law, where proof of the giving of notice is made as prescribed under subsection 21 (c), the burden of proving that one is not the person named in the certificate or affidavit shall be upon the person charged.
- (f) A notice given under subsection 21 (c) and purporting to be signed by the Fire Prevention Officer or Fire Chief appointed by Council shall be

- (i) received in evidence by any court in the Province without proof of the signature,
- (ii) proof in the absence of evidence to the contrary of the facts stated in the notice, and
- (iii) on the hearing of any information for a violation of this by-law, proof in the absence of evidence to the contrary that the person named in the notice is the owner or occupier of the premises, building or structure in respect of which the notice was given.

22. The Fire Prevention Officer or Fire Chief has the authority to complete items outlined in an order issued by the Fire Prevention Officer or Fire Chief, provided that the expenditure involved is not more than three hundred dollars and, with the approval of the Council, any order involving an expenditure of more than three hundred dollars.

XII. BURNING

23. No person shall burn or cause to burn any material out of doors on public or private property within the Town limits except as follows and subject to any provincial laws or regulations to the contrary.

- (a) A fire fighter may set an outside fire for the Sussex Fire Department for educational and training purposes;
- (b) A person is permitted to set a fire for the purpose of cooking food on a barbeque.
- (c) In this section “outdoor wood burning appliance” means a manufactured non-combustible enclosed container designed to hold a small fire for decorative purposes and the size of which is not larger than one (1) meter in any direction, and may include, but not limited to, chimneys.

A person may set a fire in an outdoor wood burning appliance provided that:

- (i) it is located at a distance of not less than three (3) metres between the appliance and any building, structure, property line, tree, hedge fence, roadway, overhead wire or other combustible article;
- (ii) it is not placed on a wood deck or other combustible platform;
- (iii) only one appliance is to be used on the property at any one time;
- (iv) it is used to burn only dry, seasoned firewood;
- (v) a portable fire extinguisher or operable garden hose is readily available while the unit is in use;
- (vi) the Owner or occupant maintains constant watch and control over the appliance when in use and until the fire is totally extinguished; and
- (vii) it does not allow smoke, smell, airborne sparks or embers to infringe on the use and enjoyment of other properties.
- (viii) the burning is consistent with the policies of the Department of Natural Resources (1-866-458-8080) and the Department of Environment.

XIII. PETROLEUM PRODUCT STORAGE

24. No person shall store gasoline, oil, liquified petroleum gases or other petroleum products except in facilities meeting the standards contained in the latest edition of the National Fire Code of Canada.

XIV. SELF SERVICE FACILITIES

25. Self service facilities for the dispensing of flammable liquids shall be in accordance with the requirements of the Fire Prevention Act and Subsection 4.5.8, Part 4, of the National Fire Code of Canada, latest edition.

XV. BUILDING DEMOLITION

26. (a) The Fire Chief or the Town Council may, in order to prevent the spread of fire, issue an order for the pulling down, demolition or removal of any building or structure.
- (b) When a building or structure is pulled down, demolished, removed or destroyed under Subsection (a), the municipality shall pay to the owner of that building or structure reasonable compensation therefore.

XVI. GENERAL

27. Upon request of the Fire Chief or Deputy Fire Chief, any person present at a fire shall assist any firefighter in the performance of their duties at the fire and shall obey all orders and directions given to them by the Fire Chief or Deputy Fire Chief in connection with the fire.
28. (a) Whenever the Fire Chief, Deputy Fire Chief or other person in charge of a fire deems it advisable to guard that locality of the fire from the crowding of persons or vehicles, they may place or cause to be placed a rope or other barrier across any street or public place to indicate the area from which persons or vehicles are prohibited.
- (b) No person except members of the Fire Department, the Police and the owner of a property endangered by the fire, shall enter or be within an area marked off by ropes or barriers under Subsection (a).

29. No person:

- (a) shall drive a vehicle over or across an unprotected hose or other firefighting equipment unless they is given permission to do so by a firefighter or peace officer;
- (b) shall interfere with or obstruct a Fire Chief or Deputy Fire Chief or any firefighter in the performance of his duties at a fire; and
- (c) shall operate a fire emergency vehicle while under the influence of intoxicating liquor or drugs.

30. No person shall place merchandise so as to obstruct the entrance into any premises by firefighter through any window, door, stairway or passageway.

XVII. PENALTY

- 31. (a) A person who breaches this by-law or who fails to comply with an order of the Fire Prevention Officer or Fire Chief authorized by this by-law commits an offence punishable under part II of the Provincial Offences Procedure Act as a category E offence.
- (c) Where a person is convicted of an offence under subsection 31 (a), the court, in addition to any penalty imposed under subsection 31 (a), may order that person to comply with the order.
- (d) A person who fails to comply with an order of the court under subsection 31 (b), commits an offence punishable under Part II of the Provincial Offences Procedure Act as a category F offence.

XVIII. PLURAL OR FEMININE TERMS

32. Plural or feminine terms may apply whenever the singular, masculine or feminine is used in this By-law. It shall be considered as if the plural, feminine or masculine has been used where the context of the party or parties hereto so requires.

XIX. VALIDITY

33. The invalidity of any section, clause, sentence or provision of this By-Law shall not effect the validity of any other part of this By-Law which can be given effect without such invalid part or parts.

XX. BY-LAW REPEALED

34. The repeal of this By-Law “A By-Law Respecting the Establishment of the Sussex Fire Department and the Prevention and Extinguishing of Fires” in the Town of Sussex shall not affect any penalty, forfeiture or liability, incurred before such repeal or any proceeding for enforcing the same completed or pending at the time of repeal; nor shall it repeal, defeat, disturb, invalidate or prejudicially affect any manner or thing whatsoever completed, existing or pending at the time of repeal.

The by-law entitled “A By-Law Respecting the Establishment of the Sussex Fire Department and the Prevention and Extinguishing of Fires, By-Law 350-05” enacted on March 21, 2005, and amendments thereto are hereby repealed.

FIRST READING BY TITLE July 16, 2012

SECOND READING BY TITLE July 16, 2012

READ IN ENTIRETY August 20, 2012

THIRD READING BY TITLE AND ENACTED August 20, 2012

..... MARC THORNE
MAYOR

.....PAUL I. MAGUIRE.....
TOWN CLERK