

BY-LAW NO. S-11

**A BY-LAW RESPECTING THE FIRE DEPARTMENT
OF THE TOWN OF NACKAWIC**

BE IT ENACTED by the Council of the Town of Nackawic as follows:

1. Title

This by-law may be cited as the "Fire Department By-Law" and shall apply to the Town of Nackawic.

2. Interpretation

In this by-law unless the context otherwise requires,

"Apparatus" means any vehicle provided with machinery, devices, equipment or materials intended for fire protection, fire suppression or assistance response, or motor vehicles used to transport fire fighters or supplies,

"Council" means the Mayor and Councillors of the Town of Nackawic,

"Department" means the Nackawic Fire Department established by this by-law and includes the members thereof,

"Fire Chief" means the person duly appointed to such position by the Council, or in his or her absence the acting Fire Chief as designated by the Council,

"Fire Marshal" means the Fire Marshal appointed under the *Fire Prevention Act* and includes any person authorized by the Fire Marshal to act on the Fire Marshal's behalf,

"Fire Prevention Act" means chapter F-13 of the revised statutes of New Brunswick 1973 and amendments thereto,

"Hospital" includes a hospital facility, sanatorium, infirmary, nursing home, or home for the aged,

"Member" means the Fire Chief, Officer(s) and any fire fighter, volunteer fire fighter auxiliary-fire fighter, and fire prevention officer(s),

“Place of Assembly” includes a building or structure, or a portion thereof, and a tent or awning with walls or side curtains designed, used or intended to be used to accommodate fifty or more persons at the same time for the purpose of meetings, entertainment, eating, instruction, worship, recreation or drill,

“Sleeping Accommodations” includes

- (a) a hotel or any other building in which lodgings are provided for rent or hire,
- (b) any building in which lodgings are offered to members of the public on a gratuitous basis,
- (c) any building, in which an educational institution lodges its students,
- (d) any building, other than a single family residence, in which a religious organization lodges its members,
- (e) a hospital facility, sanatorium, infirmary, nursing home or home for the aged,
- (f) an orphanage or children’s home,
- g) a jail, reformatory or other penal institution, or
- (h) an apartment house with three or more self-contained units above the ground floor.

3. Establishment

3.01 A Fire Department for the Town of Nackawic is hereby established and shall be known as the "Nackawic Fire Department".

3.02 Subject to section 10, the territorial jurisdiction of the Fire Department is the incorporated area of the Town of Nackawic.

4. Regulations

4.01 The Fire Department shall consist of: six officers comprised of, in order of seniority, the Fire Chief, the Deputy Fire Chief, two (2) Captains, two (2) Lieutenants/Safety Officers, a maximum of twenty-four (24) active fire fighters all inclusive, and a maximum of six (6) auxiliary fire fighters.

4.02 The Fire Chief shall be appointed by resolution of the Council and shall hold office during the pleasure of the Council.

4.03 With the exception of the Fire Chief, all members upon acceptance into the Fire Department by the Fire Chief, shall have their names given to the Chief Administrative Officer, who will forward a report to Council.

4.04 With the exception of the Fire Chief, any member of the Fire Department who wishes to resign, must give his or her resignation in writing to the Fire Chief.

4.05 On dismissal for just cause, the Council may dismiss the Fire Chief, in writing and sent by registered mail. Thirty days notice shall be given of this intention.

4.06 The Fire Chief may tender his or her resignation in writing to the Council, giving cause, thirty (30) days before effective date of resignation.

4.07 Every member of the Fire Department shall be

- (a) physically fit,
- (b) a resident of the Town, or, where applicable, a resident of any area included within the scope of an agreement made pursuant to section 10.
- (c) of good reputation,
- (d) more than eighteen years of age,
- (e) subject to a criminal records check, and
- (f) required to supply a driver's abstract.

4.08 The Fire Chief may reduce in rank, suspend or dismiss any member of the Fire Department. Such action may be taken for any of the following reasons:

- (a) insubordination
- (b) inefficiency
- (c) gross misconduct, or
- (d) failure to attend to duty.

5. Duties Of The Fire Chief

5.01 The Fire Chief is responsible for the administration and operation of the Fire Department and may make general orders and rules as may be necessary for the care and protection of the property of the Department, the conduct of members of the Department and, generally, the efficient operation of the Department, provided that such general orders and rules shall not conflict with the provisions of any by-law of the Town.

5.02 The Fire Chief shall annually prepare and submit to Council the Fire Department's estimate of costs of operation, maintenance and supplies for the following year. Such estimates shall include:

- (a) the general cost for operation of the Fire Department,
- (b) the cost of repair, replacement or addition to apparatus, equipment and supplies,
- (c) the capital costs of building and equipment.

5.03 The Fire Chief shall have charge of the conduct and general operation of the Fire Department including, without limiting the generality of the foregoing, fighting fires, responding to fire alarms, fire drills or practices, the care and maintenance of any building or portion thereof used by the Fire Department, all apparatus equipment, and supplies, and fire prevention activities.

5.04 The Fire Chief shall maintain proper decorum and discipline within the Fire Department at all times and shall have the authority to issue written or general orders relating to

- (a) the general operation and maintenance of the Fire Department,
- (b) the maintaining of proper decorum, discipline and efficiency of the members of the Fire Department at fires, alarms and practices and in the discharge of the Department's duties in so far as the same has a bearing on the efficiency of the Fire Department,
- (c) the use of the fire station for meetings, social gatherings, and
- (d) the care and maintenance of apparatus, equipment and supplies.

5.05 The Fire Chief shall maintain a record of

- (a) the attendance of members of the department at fires, drills and practices,
- (b) the particulars of every fire reported to or coming to the knowledge of, the Fire Department, which particulars shall include the property damage, injury to persons and losses of life resulting from such fires, and cause of fire,
- (c) the apparatus, equipment, and supplies of the Fire Department and the condition and quantity thereof, and
- (d) such other information as may be required from time to time by the Council.

5.06 The Fire Chief shall, annually or more often if requested by the Council or considered necessary by the Fire Chief, make a report to the Council of the activities of the Fire Department and include a summary of the records maintained pursuant to subsection 5.05.

5.07 The Fire Chief shall submit a report to the Council immediately of any substantial losses through breakage, destruction, shortages or deficiencies in the apparatus, equipment and supplies of the Fire Department.

5.08 The Fire Chief, by virtue of his or her office is a local assistant to the Fire Marshal within the Town and, subject to the directions of the Fire Marshall, shall carry out the duties of a local assistant as authorized or required by the *Fire Prevention Act*.

5.09 The Fire Chief shall comply with all provisions of the *Fire Prevention Act* and other applicable statutes and enforce within the Town all laws of which he or she is an enforcing officer by virtue of his or her position as local assistant, statutory provision, or special appointment or directive.

6. Duties Of Fire Department Members

6.01 The Deputy Fire Chief shall carry out the instructions of the Fire Chief and in the event of the absence, incapacity or disability of the Fire Chief, or when the position of the Fire Chief is vacant, the Deputy Fire Chief shall be acting Fire Chief with all duties and responsibilities of the Fire Chief.

6.02 Captains and Lieutenants shall carry out the instructions of his or her senior Officers.

6.03 The fire fighters shall respond promptly to all fire alarms and attend all drills and practices as far as possible and carry out the instructions of the senior Officers.

6.04 The members of the Fire Department shall meet at least once a month for practice and instruction in the use of all apparatus, equipment and supplies of the Fire Department and in the principles of fire prevention and fire protection.

6.05 The members may organize for social or other purposes intended to further the interest and welfare of the Fire Department and the Members thereof.

6.06 No rule or regulation of any such organization shall in any way restrict or impair the authority of the Fire Chief nor the conduct and efficiency of the Fire Department and the members thereof.

6.07 The Fire Chief shall ensure that all members of the Fire Department are properly qualified and entitled to receive compensation pursuant to the *Worker's Compensation Act* of New Brunswick, and amendments thereto, to the extent that the same is possible

and the Fire Chief shall otherwise comply with all applicable provisions of said Act and the regulations thereunder.

6.08 Without limiting the generality of subsection 6.07:

(a) The Fire Chief shall maintain a list of the names and addresses of all members of the Fire Department, and

(b) Injury to, or death of, any member of the Fire Department occurring in the course of or as a result of the discharge of his or her duties at a fire drill or practice, responding to or returning from an alarm of fire or otherwise, shall be reported immediately to the Fire Chief or officer-in-charge of the Fire Department and the Fire Chief or such Officer shall promptly comply with the required procedure with respect to claiming compensation pursuant to the *Workers' Compensation Act* and regulations thereunder.

(c) The Council may make provision for the compensation, by insurance or otherwise, of fire prevention officers, and officers and members of the Fire Department, of injuries received by them while performing their duties.

7. Remuneration

Council, by resolution, shall fix the remuneration for members of the Nackawic Fire Department.

8. Demolition of Buildings

8.01 In the event of a serious fire or conflagration developing there from which threatens the destruction of the Town or any portion thereof, the Fire Chief, may subject to the approval of the Council, pull down, demolish or otherwise remove or order to be pulled down, demolished, or remove any buildings, erection, or structure for the purpose of preventing the spread or staying the progress of such fire or conflagration.

8.02 Where a building, erection or other structure is pulled down or demolished under the authority of subsection 8.01 hereof, the Town is liable to compensate any person having an interest in the building, erection or other structure pulled down or demolished for any damage suffered by that person as a result of such pulling down or demolition.

9. General

9.01 During the process of a fire, the Fire Chief may, if it is considered necessary or advisable for the effective combating of the fire or the prevention of injury or damage to persons or property,

(a) 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, except for the passage of fire, police, emergency and other authorized personnel and vehicles,

(b) secure doors and windows and take other precautionary steps to protect persons and property either directly involved in, or threatened by a fire, and

(c) prohibit any person other than members of the Fire Department from riding on fire apparatus, entering buildings involved with or threatened by fire, handling fire hose lines or other fire fighting equipment and apparatus, or doing any other thing which is likely to endanger the safety of any person, or which may hamper the combating of a fire.

9.02 No person shall disobey an order or direction given by the Fire Chief or senior officer-in-charge while in the performance of their duties at a fire, nor shall any person interfere with or obstruct any such officer or any fire fighter while in the performance of any duty at or in connection with a fire.

9.03 The owner or any occupier of a building, or any part thereof, which is burning or threatened by fire shall not prevent members of the Fire Department from entering the buildings or part thereof.

9.04 No person shall drive a vehicle over or across an unprotected hose or other fire fighting equipment unless he or she is given permission to do so by a member of the Fire Department or a peace officer.

9.05 No person shall obstruct any fire hydrant at any time, whether with barricades, vehicles or other items, by covering with snow, or through any other means.

9.06 The Fire Chief shall furnish to the Town's police authority the names of any person that disobeys his or her directions, damages or renders inoperative Fire Department vehicles, equipment or apparatus or interferes with or obstructs the members of the Fire Department in the execution of their duties.

9.07 No fire fighting equipment shall be released or loaned to another fire department or agency without written authorization of the Council and in no circumstances shall property of the Town Fire Department be released or loaned to any person.

9.08 Without written authorization of the Fire Chief, Fire Department vehicles and fire fighting equipment shall not be used for any work other than work of the Nackawic Fire Department.

10. Fires Outside Town Limits

10.01 The Council may from time to time enter into an agreement with neighbouring municipalities, local service districts or community organizations for the provision or sharing of fire protection services to or with neighbouring areas.

10.02 No agreement pursuant to subsection 10.01 shall require the Fire Department to leave the Town while answering a call within the Town nor to take all the Fire Department's apparatus and equipment out of the Town at any time.

10.03 The Fire Department shall not respond to any fire outside the limits of the Town except in the case of

- (a) a call from a neighbouring area with which there is an agreement pursuant to subsection 10.01 hereof, or
- (b) with permission of the Chief Administrative Officer or Mayor, a fire emergency in a neighbouring area.

10.04 The Council may from time to time by resolution establish service fees applicable in the case of the Fire Department providing fire protection services to neighbouring areas in the event of an emergency or under an agreement made pursuant to subsection 10.01 hereof.

11. Salvage Corps And Auxiliary Fire Fighters

The Fire Chief may, subject to the approval of the Council,

- (a) organize a salvage corps and fire police group within the Fire Department for the greater protection of public and private property involved in a fire, and
- (b) recruit, attach to, and train a maximum of six (6) auxiliary fire fighters to augment the Fire Department in the event of any conflagration or emergency. Auxiliary fire fighters shall not be compensated by a honorarium but will be covered by Workers Compensation.

12. Investigation And Reporting Fires

12.01 The Fire Chief, or any person authorized in writing by the Chief, may inspect any building or premises within the Town, and for the purpose may, at all reasonable hours, enter into and upon any building or premises for the purpose of determining the cause or origin of a fire.

12.02 The Fire Chief, or in his or her absence the senior Officer, shall promptly report to the Fire Marshal or the nearest branch office of the Fire Marshal, by the most direct means,

- (a) the circumstances of any death or serious injury to a person caused by a fire,
- (b) any suspicious or suspected incendiary fire,
- (c) any fire occurring in a hospital, school, place of assembly or sleeping accommodation,
- (d) when required, all fires occurring within the Town, and
- (e) such other information with respect to fires occurring within the Town as may be required from time to time by the Fire Marshal.

13. Fire Prevention

13.01 The Fire Chief and such other persons as the Council may appoint by resolution from time to time shall be Fire Prevention Officers.

13.02 A Fire Prevention Officer, the Fire Chief, or any person duly authorized in writing by the Fire Marshal, may enter any building or premises within the Town at reasonable times to inspect for fire prevention or to investigate the cause or origin of a fire.

13.03 A Fire Prevention Officer may enforce the provisions of the *Fire Prevention Act* and the regulations made there under, and for that purpose shall have the same powers under the same conditions as are conferred upon the Fire Marshal under sections 11, 12, and 16 of the *Fire Prevention Act* by Provincial Legislation, amendments thereto, and the regulations made there under.

13.04 No person shall prevent a Fire Prevention Officer from entering into or upon any building or premises for the purpose of making a fire prevention inspection or otherwise obstruct a Fire Prevention Officer in the performance of his or her duties.

14. Burning Permit Application

14.01 Any person who proposes to ignite a fire within the Town limits shall make a written application to the Fire Chief for a permit.

14.02 The Fire Chief may issue a permit where it is determined that the provisions of this by-law are met and that the proposed burning does not pose a hazard to persons or property.

14.03 In making a determination under subsection 14.02, the Fire Chief shall take into consideration the following:

- (a) the velocity of the wind and general weather conditions,
- (b) the proposed manner and method of burning,
- (c) whether the applicant owns or is the occupant of the land upon which the burning is intended to occur, or has the written consent, produced prior to the issuance of the permit, of the owner of the land upon which the burning will occur,
- (d) whether the applicant is of legal age or older and ensures that at least one other person, of legal age or older, suitably equipped to control the fire, will be present while the fire is burning or smoldering, and
- (e) any other manner that the Fire Chief determines is relevant to safety.

14.04 A permit issued under the authority of this by-law may be revoked by the Fire Chief at any time where it is determined that the proposed burning will pose a hazard to persons or property.

14.05 Where the Fire Chief determines that the proposed burning would be a hazard to safety or where there is a failure to meet the requirements of the by-law, the Fire Chief shall refuse to issue a permit.

14.06 The Fire Chief may specify on the permit the hours of the day and the number of days during which the permit shall be valid.

14.07 This section does not apply to a small confined fire used to cook food in grills or barbecues, and chimneas.

15. Restrictions

15.01 The burning of rubbish, garbage or other waste, either household or industrial, shall not be permitted at anytime. Any portable incinerator or portable device used to burn any material must be inspected and approved by the Fire Chief before a written permit is issued.

15.02 No person shall burn rubber tires, oil, plastic, petroleum products or other like materials.

15.03 All materials to be burned shall be piled and placed away from any combustible materials.

15.04 No fire shall be ignited when the wind is blowing of sufficient velocity such that it may jeopardize the permit holder's ability to control the fire.

15.05 The person to whom a permit is issued shall ensure that the fire is not left unattended and that all smoldering embers are completely extinguished after burning is completed.

15.06 The Fire Department shall be notified immediately if the fire is or appears to be getting out of control. The permit holder may be required to pay all expenses incurred in controlling or extinguishing any fire, which may get beyond or be in danger of doing so or extend to lands of others.

15.07 The holder of a permit shall ensure that the permit is available at the scene of the fire.

15.08 Any person who does not have a burning permit shall receive two warnings by letter. After the second warning the Fire Department shall extinguish any fires and the parties will be fined not less than Two Hundred and Fifty Dollars (\$250.00) for each offence thereafter.

16. Fire Alarms

16.01 Every owner of a building in which a fire alarm system is installed is responsible for false alarms generated in that building, and every owner inherits all false alarms which were made on that property earlier in the calendar year by the previous owners.

16.02 All false alarm assessments shall be sent to the owner of the property, not the tenant.

16.03 The Nackawic Fire Department may charge the owner of the property for which a false alarm is generated the following fees:

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|---|---|----------|
| 1st False Alarm | - | FREE |
| 2nd False Alarm in any calendar year | - | \$ 50.00 |
| 3rd False Alarm in any calendar year | - | \$ 75.00 |
| 4th and any subsequent False Alarm in any calendar year | - | \$100.00 |

17. Protective Services Committee

17.01 The Fire Chief or his designate shall represent the Fire Department on the Protective Services Committee.

17.02 The Fire Department's annual estimates, as required by section 5, and any other report, which the Fire Chief is required by this by-law to make to Council, shall be submitted by the Fire Chief to the Committee and the Committee shall in turn submit the

estimates or report to the Council together with such recommendations, advice or additional information as the Committee considers appropriate.

18. Penalty Provision

18.01 Any person who fails to comply with an Order of a Fire Prevention Officer duly made under the authority of this by-law, and its amendments, commits an offence punishable under Part II of the *Provincial Offences Procedure Act* as a category E offence.

18.02 Where a person is convicted of an offence under subsection 18.01, the Court, in addition to any penalty imposed under subsection 18.01, may order that person to comply with the Order.

18.03 A person who fails to comply with an Order of the Court under subsection 18.02 commits an offence punishable under Part II of the *Provincial Offences Procedure Act* as a category F offence.

18.04 Notwithstanding subsections 18.01, 18.02, and 18.03, a person who violates other provisions of this bylaw is guilty of an offence and is liable on conviction to a fine of not less than Fifty Dollars (\$50.00) and not more than Two Hundred Dollars (\$200.00).

19. Repeal Provision

19.01 By-Law No. 61 (85), of the Town of Nackawic, A By-Law Relating to the Fire Department, passed by Town Council on April 1, 1975 and amendments thereto, is hereby repealed.

19.02 The repeal of By-Law No. 61 (85) of the Town of Nackawic, A By-Law Relating to the Fire Department and amendments thereto, 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.

DULY PASSED AND ENACTED BY THE COUNCIL OF THE TOWN OF
NACKAWIC ON MARCH 1, 2004.

Robert G. Connors, Mayor

Nancy Cronkhite, Chief Administrative Officer

First Reading: February 16, 2004
Second Reading: March 1, 2004
Third Reading: March 1, 2004