BY-LAW HAM-2024-06
A By-law of the town of Hampton respecting the establishment of the Hampton Fire-Rescue and Nauwigewauk Fire-Rescue Departments and the prevention and extinguishment of fires.

Hampton Council under the authority vested in it by section 186 of the Local Governance Act, SNB 2017, c 18, and amendments thereto duly assembled hereby, enacts as follows:

1. TITLE

1.1. This by-law may be cited as the "Hampton Fire By-Law."

2. DEFINITIONS

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

"Assistance Response" means:

(a) First response to medical emergencies;

(b) Fire response to accidents, natural or human-made disasters, escapes of hazardous materials or other circumstances that have caused or cause harm to persons or property; or

(c) Rescue operations including but not limited to Auto Extrication, Basic Remote Rescue, Ice/Water Rescue, Heavy Rescue and Off-Road Rescue.

"Chief Administrative Officer" means the Chief Administrative Officer of Hampton.

"Clerk" means the Clerk of Hampton.

"Council" means the Council of Hampton.

"Hampton Department" means the Hampton Fire-Rescue Department.

"Nauwigewauk Department" means the Nauwigewauk Fire-Rescue Department.

"Departments" means the Hampton Fire-Rescue and the Nauwigewauk Fire-Rescue Departments.

"Fire Chief" means Fire Chief of one of the Departments (Hampton and/or Nauwigewauk).

"Fire Prevention Act" means the *Fire Prevention Act*, Chapter F-13 of the Revised Statutes of New Brunswick and Regulations, and Amendment thereto.

"Fire Prevention Officer" means a person duly appointed a Fire Prevention Officer by the Council of Hampton and includes the Fire Chief.

"Firefighter" means volunteer and/or staff firefighter.

"Mayor" means the Mayor of Hampton.

"On-Duty" means engaged in or responsible for an assigned task.

"Order" means an order made under authority of this by-law by the Fire Chief or a Fire Prevention Officer.

"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 is not limited to chimneys, but does not include outdoor propane or natural gas appliances.

"Police" means:

(a) A member of the Royal Canadian Mounted Police.

(b) A police officer appointed under Section 10, 11, or 17.3 of the *Police Act.*

(c) 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.

"Public Services" means public information, education and prevention programs, as they relate to fire safety, public safety, and emergency preparedness.

"Senior Officer" means every person holding the rank of Captain or above.

"Treasurer" means the Treasurer of Hampton.

3. APPLICATION

3.1. In this By-law where the context requires, the singular shall be taken to also mean the plural.

PART 1

ESTABLISHMENT OF THE HAMPTON FIRE-RESCUE AND THE NAUWIGEWAUK FIRE-RESCUE DEPARTMENTS

4. FIRE DEPARTMENT

4.1. The Council hereby establishes the Hampton Fire-Rescue Department and the Nauwigewauk Fire-Rescue Department, and the heads of the Departments shall be known as the Fire Chiefs.

4.2. The Council shall appoint a Fire Chief for each Department who shall be, ex officio, a fire prevention officer for the Department.

4.3. The Council may approve the appointment of any qualified person as a Deputy Fire Chief, an Assistant Deputy Fire Chief, a firefighter, a Fire Prevention Officer, a Captain, Lieutenant or Training Officer of the Department on the recommendation of the Fire Chief.

4.4. The Council shall from time to time by Council resolution determine the total number of firefighters for the Departments.

4.5. The Council shall determine from time to time the remuneration of all firefighters of the Departments.

5. EMPOWERMENT

5.1. The Hampton Fire-Rescue Department and the Nauwigewauk Fire-Rescue Department are empowered to provide the following services:

(a) Fire Protection;

(b) Assistance Response;

(c) Mutual Aid; and

(d) Public Services

6. FIRE CHIEF

6.1. The Fire Chiefs are responsible to the Council through the Chief Administrative Officer for the proper administration and operation of their respective Departments and for the discipline of its firefighters. The Fire Chiefs:

(a) 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 Hampton;

(b) shall review periodically the policies and procedures of the Department and make recommendations to the Council;

(c) 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 them by the *Fire Prevention Act*;

(d) shall be responsible for the enforcement of this by-law and the general orders and departmental rules;

(e) shall report all fires to the Fire Marshal as required by the *Fire Prevention Act*;

(f) shall assist in the submission to the Council for Council's approval the Annual estimates of the Department;

(g) shall make a monthly report to the Council of the activities of the Department during the preceding month including all calls answered by the Department;

(h) shall make an annual report for each Department to the Council for the preceding year, summarizing all calls, all fires, names of all members of the Department and recommendations to promote the efficiency of the Department;

(i) 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;

(j) shall assign to the firefighters their regular duties and other duties they deem proper;

(k) shall make or cause to be made a record of the attendance of all firefighters at each fire and training session;

(l) may, in consultation with Hampton's Human Resources Department, 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

(m) shall, in consultation with Hampton's Human Resources Department, recommend to Council the dismissal of a firefighter, for just cause.

7. DEPUTY FIRE CHIEF AND ASSISTANT DEPUTY FIRE CHIEF

7.1. While on duty, a Deputy Fire Chief and/or an Assistant 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 the same authority as and perform all the duties of the Fire Chief.

8. FIREFIGHTERS

8.1. A person qualified to be appointed a firefighter for the Department for firefighting duties:

(a) shall be of good character;

(b) shall pass such aptitude and other tests as may be required by the Fire Chief; and

(c) may, at the request of the Fire Chief, be required to consent to a physical examination by a physician to be certified as medically fit.

8.2. A person appointed as a firefighter of the Department for firefighting duties shall be on probation for a period of six (6) months from the date of Council approval.

8.3. If a probationary firefighter appointed for firefighting duties fails to meet the examination requirements of the Fire Department, the Fire Chief may recommend to the Council that their probation period be extended or that they be dismissed.

8.4. When so ordered by the Fire Chief, all firefighters shall assemble for drill and instruction in the use of firefighting equipment at the time and place specified by the Fire Chief.

9. GENERAL

9.1. Firefighters of the Fire Department shall comply with this by-law and the rules and regulations of the Department.

9.2. 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.

9.3. 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.

9.4. No firefighting equipment shall be taken beyond the limits of the Municipality of Hampton except with the consent of the Fire Chief or the officer in charge.

9.5. 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.

9.6. 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.

9.7. In the absence of the Fire Chief and Deputy Fire Chief and Assistant Deputy Fire Chief, a senior officer of the Department shall have the same authority as and perform all the duties of the Fire Chief.

PART 2

PREVENTION & EXTINGUISHMENT OF FIRES

10. FIRE PREVENTION OFFICER

10.1. 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.

10.2. A Fire Prevention Officer:

(a) is empowered to enforce the provisions of this and any other by- law relating to the prevention and extinguishment of fires;

(b) is authorized to enforce the *Fire Prevention Act* and the regulations made there under; and

(c) without limiting the generality of the foregoing, has herewith conferred upon them the same powers under the same conditions as are conferred upon the Fire Marshal by Sections 12, 16 and 21 of the *Fire Prevention Act*.

10.3. A Fire Prevention Officer or in their absence another officer of the Department 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 premises within the boundaries of the municipality of Hampton to investigate the cause or origin of a fire.

11. ORDERS

11.1. 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.

12. NOTICE

12.1. Where a condition mentioned in subsection 11.1 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:

(a) be in writing,

(b) be signed by the Fire Prevention Officer or Fire Chief,

(c) state that the condition referred to in subsection 11.1 exists,

(d) state what must be done to correct the condition,

(e) state the date before which the condition must be corrected, and

(f) be served either by personal delivery or via registered mail on the person to be notified or by posting in a conspicuous place on the premises, building or structure.

12.2. Proof of the giving of notice in either manner provided for in subsection 12.1 (f) 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 12.1, naming the person to whom notice was given and specifying the time, place and manner in which notice was given.

12.3. A document purporting to be a certificate or proof of service under subsection 12.2 shall be admissible in evidence without proof of signature, and conclusive proof that the person named in the certificate received notice of the matters referred to in the certificate.

12.4. In any prosecution for a violation of this by-law, where proof of the giving of notice is made as prescribed under subsection 12.2, the burden of proving that one is not the person named in the certificate or affidavit shall be upon the person charged.

12.5. A notice given under subsection 12.2 and purporting to be signed by the Fire Prevention Officer or Fire Chief appointed by Council shall be:

(a) received in evidence by any court in the Province of New Brunswick without proof of the signature,

(b) proof in the absence of evidence to the contrary of the facts stated in the notice, and

(c) 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.

12.6. 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.

13. BURNING

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

13.2. A firefighter may set an outside fire for the Hampton Fire-Rescue Department and/or the Nauwigewauk Fire-Rescue Department for educational and training purposes.

13.3. A person is permitted to set a fire for the purpose of cooking food on a barbeque.

13.4. A person who has sought a Hampton burning permit and is abiding by the conditions of same.

13.5. A person may set a fire in an outdoor wood burning appliance or firepit provided that:

(a) a minimum of 10 metres (30') or a distance determined at the discretion of the fire prevention officer or delegate shall be observed from their property line;

(b) a minimum of 4.5 metres (15') shall be observed from any structure, decks or trees;

(c) appliances shall be placed on a 1.2 x 1.2 metre (4' x 4') non-combustible surface (patio blocks or gravel);

(d) only one outdoor wood burning appliance or firepit is to be used on the property at any one time;

(e) firepits shall be no larger than 1 metre (3') in diameter and have all duff material removed. The perimeter of the firepit is to be lined with rock or stone;

(f) it is used to burn only dry, seasoned firewood or untreated clean scrap lumber. Burning of grass and/or leaves is not permitted;

(g) a portable fire extinguisher or operable garden hose is readily available while the unit is in use;

(h) the Owner or occupant maintains constant watch and control over the outdoor wood burning appliance or firepit when in use and until the fire is totally extinguished;

(i) it does not allow smoke, smell, airborne sparks or embers to infringe on the use and enjoyment of other properties;

(j) the burning is consistent with the policies of the Department of Natural Resources and Energy Development and the Department of Environment and Local Government; and

(k) it has been inspected by and received a permit from Hampton Fire-Rescue or Nauwigewauk Fire-Rescue.

14. PETROLEUM PRODUCT STORAGE

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

15. SELF SERVICE FACILITIES

15.1. 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.

16. BUILDING DEMOLITION

16.1. The Fire Chief or the Hampton 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.

17. FALSE ALARMS

17.1. Every owner of a building, in which a fire alarm system is installed, is responsible for false alarms generated for that building. The Hampton Fire-Rescue Department and/or the Nauwigewauk Fire-Rescue Department may charge the owner of a building from which a false alarm is generated an escalating fee of one hundred dollars per incident. Each subsequent false alarm in a calendar year may cause an additional one hundred dollars to be charged to the owner of said building. Two false alarms per year per building will be allowed with no charge being applied to the building owner.

18. GENERAL

18.1. Upon request of the Fire Chief or Deputy Fire Chief , Assistant Deputy Fire Chief or Incident Commander, 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 or Assistant Deputy Fire Chief in connection with the fire.

18.2. Whenever the Fire Chief, Deputy Fire Chief, Assistant Deputy Fire Chief or Incident Commander 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.

18.3. 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 18.2.

18.4. No person:

(a) shall drive a vehicle over or across an unprotected hose or other firefighting equipment unless they are given permission to do so by a firefighter;

(b) shall interfere with or obstruct a Fire Chief or Deputy Fire Chief or Assistant Deputy Fire Chief or any firefighter in the performance of their duties at a fire; and

(c) shall operate a fire emergency vehicle while under the influence of intoxicating liquor or drugs.

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

18.6. If Hampton Fire-Rescue and/or Nauwigewauk Fire-Rescue responds to a motor vehicle incident or other emergency and determines:

(a) it is necessary to call in additional or special resources; and/or

(b) it is necessary to retain a private contractor; and/or

(c) it is necessary to rent special equipment not normally carried on a fire apparatus; and/or

(d) it is necessary to consume materials or supplies in order to suppress or extinguish a fire, preserve a property or prevent a fire from spreading or otherwise control and eliminate an emergency; and/or

(e) that operations at the incident have damaged apparatus or equipment owned by or under the control of Hampton Fire-Rescue and/or Nauwigewauk Fire-Rescue, the motor vehicle owner(s) or property owner(s), individually or jointly, may be charged those expenses or costs for damages incurred.

19. PENALTY

19.1. 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.

19.2. Where a person is convicted of an offence under subsection 19.1, the court, in addition to any penalty imposed under subsection 19.1, may order that person to comply with the order.

19.3. A person who fails to comply with an order of the court under subsection 19.2, commits an offence punishable under Part II of the *Provincial Offences Procedure Act* as a category F offence.

20. VALIDITY

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

21. REPEAL

21.1. By-law No. HAM-2023-06, being a by-law respecting the establishment of the Hampton Fire-Rescue and Nauwigewauk Fire-Rescue Departments and the prevention and extinguishment of fires, enacted on February 14, 2023, and all amendments thereto, is hereby repealed.

First Reading: May 14, 2024

Second Reading: May 14, 2024

Third Reading and Enacted: July 9, 2024

Robert Doucet
Mayor

Richard Malone
Clerk

HAMPTON INCORPORATED 1966 NEW BRUNSWICK