

VILLAGE OF SUSSEX CORNER

BY-LAW # 113 - 10

A BY-LAW RESPECTING THE PREVENTION OF FIRES

The Council of the Village of Sussex Corner, pursuant to the authority granted under Section 109 of the *Municipalities Act* of the Province of New Brunswick, enacts as follows:

TITLE

1. This bylaw may be cited as the “Fire Prevention Bylaw”.

DEFINITIONS

2. In this bylaw, unless the context otherwise requires:
 - (a) “*Council*” means the Council of the Village of Sussex Corner.
 - (b) “*Department*” means the Sussex Fire Department.
 - (c) “*Fire Chief*” means the Fire Chief of the Sussex Fire Department.
 - (d) “*Fire Prevention Act*” means the Fire Prevention Act, Chapter F-13 of the Revised Statutes of New Brunswick and Regulations thereunder.
 - (e) “*Fire Prevention Officer*” means a person duly appointed a Fire Prevention Officer of the Sussex Fire Department and includes the Fire Chief.
 - (f) “*Order*” means an order made under authority of this bylaw by the Fire Chief or a Fire Prevention Officer.
 - (g) “*Village*” means the Village of Sussex Corner.

VILLAGE COUNCIL

3. The Council of the Village hereby recognizes and grants authority to the Fire Chief and Fire Prevention Officer(s) as specified throughout this bylaw.

FIRE PREVENTION OFFICER

4. (1) A Fire Prevention Officer is subject to the direction of the Fire Chief and is authorized to enforce this bylaw, regulations, the *Fire Prevention Act* or other laws relating to the prevention and extinguishment of fires.
- (2) A Fire Prevention Officer:
 - (a) is empowered to enforce the provisions of this and any other bylaw relating to the prevention and extinguishment of fires;
 - (b) is authorized to enforce the *Fire Prevention Act* and the regulations made thereunder; and
 - (c) 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*.
5. A Fire Prevention Officer, or any person authorized in writing by a Fire Prevention Officer, upon receipt of a complaint from an interested person or where deemed necessary without a complaint, may at any reasonable time enter and inspect any building or premise within the Village for the purposes of fire prevention or to investigate the cause or origin of a fire.

ORDER / NOTICE

6. (1) An Order of the Fire Prevention Officer or Fire Chief, under terms of this bylaw, shall be in writing and signed by the Fire Prevention Officer or Fire Chief for any infractions of this bylaw, regulations, *Fire Prevention Act* or other laws relating to the prevention and extinguishment of fires.
- (2) When a condition mentioned in Subsection 6 (1) exists, a Fire Prevention Officer or Fire Chief may notify the owner or occupant 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 5 (1) exists;
 - (d) state what must be done to correct the condition;
 - (e) state the date before which the condition must be corrected; and

6. (2) (f) 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.
- (3) Proof of the giving of notice in either manner provided for in Subsection 6 (2) (f) may be by a certificate or 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 6 (2), naming the person to whom notice was given and specifying the time, place and manner in which notice was given.
- (4) A document purporting to be a certificate or proof of service under Subsection 5 (3) shall be:
 - (a) admissible in evidence without proof of signature; and
 - (b) conclusive proof that the person named in the certificate received notice of the matters referred to in the certificate.
- (5) In any prosecution for a violation of this bylaw, where proof of the giving of notice is made as prescribed under Subsection 65 (3), the burden of proving that one is not the person named in the certificate or affidavit shall be upon the person charged.
- (6) A notice given under Subsection 6 (3) and purporting to be signed by the Fire Prevention Officer or Fire Chief shall be:
 - (a) received in evidence by any court in the Province 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 bylaw, proof in the absence of evidence to the contrary that the person named in the notice is the owner or occupant of the premises, building or structure in respect of which the notice was given.

BURNING

7. No person shall burn or cause to burn any material out of doors on public or private property within the Village limits except as follows and subject to any provincial laws or regulations to the contrary.
 - (1) The Fire Department may set an outside fire for educational and training purposes;

7. (2) A person may set a recreational campfire within the Village provided the following conditions are complied with by the person having the recreational campfire:
- (a) the fire is to be in a contained area using only untreated wood as a fuel and being no larger than one (1) square metre in area;
 - (b) the owner of the property where the campfire is located has given permission for the fire;
 - (c) not more than one (1) recreational campfire is located on a private lot at any one time;
 - (d) the campfire is attended at all times;
 - (e) a means of extinguishment of the campfire is readily available; and
 - (f) the fire is completely extinguished prior to the campfire area being vacated.
- (3) A person is permitted to set a fire for the purposes of cooking food on a barbeque.
- (4) 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) metre in any lateral direction and two (2) metres in a vertical direction, and may include, but not be limited to, chimneys.

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

- (a) 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;
- (b) it is not placed on a wood deck or other combustible platform;
- (c) only one appliance is to be used on the property at any one time;
- (d) it is used to burn only dry, seasoned firewood;
- (e) a portable fire extinguisher or operable garden hose is readily available while the unit is in use;

- 7. (4) (f) the owner or occupant maintains constant watch and control over the appliance when in use and until the fire is totally extinguished; and
- (g) it does not allow smoke, smell, airborne sparks or embers to infringe on the use and enjoyment of other properties.

PENALTY

- 8. A person who breaches this bylaw or who fails to comply with an order issued under this bylaw commits an offence punishable under Part II of the Provincial Offences Procedure Act as a Category E offence.
- 9. Where a person is convicted of an offence under Section 8, the court, in addition to any penalty imposed under Section 8, may order that person to comply with that order.
- 10. A person who fails to comply with an order of the court under Section 9 commits an offence under Part II of the Provincial Offences Procedure Act as a Category F offence.

VALIDITY

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

REPEAL OF BYLAW

- 12. The repeal of this bylaw 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.

READ A FIRST TIME	2010	07	20
READ A SECOND TIME	2010	07	20
READ A THIRD TIME AND ENACTED	2010	08	17

CLERK

MAYOR