

**THE CORPORATION OF THE**

**TOWNSHIP OF WAINFLEET**

**BY-LAW NO. 071-2019**

Being a by-law to repeal and replace By-law No. 043-2018 being a By-law to establish and regulate the Township of Wainfleet Fire & Emergency Services.

**WHEREAS** the *Municipal Act, S.O. 2001, c.25*, as amended, and the *Fire Protection and Prevention Act, 1997, S.O. 1997, c.4* as amended, permits the Council to enact a by-law to establish and regulate a Fire Department;

**WHEREAS** subsection 2 (1) of the *Fire Protection and Prevention Act 1997* requires each municipality to establish a program which must include public education with respect to fire safety and certain components of fire prevention; and, to provide such other fire protection services as it determines may be necessary, and

**WHEREAS** subsection 2 (2) of the *Fire Protection and Prevention Act 1997* requires a municipality, in discharging the responsibilities under subsection 2(1), to establish a Fire Department, and

**WHEREAS** subsection 5 (1) of the *Fire Protection and Prevention Act 1997* requires a Fire Department to provide fire suppression services that permits the Fire Department to provide other fire protection services;

**NOW THEREFORE** the Council of the Corporation of the Township of Wainfleet **HEREBY ENACTS AS FOLLOWS:**

**Definitions:**

1. In this By-law, unless the context otherwise requires,
  - a. **Approved** means Approved by the Council
  - b. **Chief Administrative Officer (CAO)** means the person appointed by Council to act as Chief Administrative Officer for the Corporation
  - c. **Corporation** means the Corporation of the Township of Wainfleet
  - d. **Council** means the Council of the Township of Wainfleet

- e. **Deputy Chief** means the person appointed by Council to act on behalf of the Fire Chief of the Fire Department in the case of an absence or a vacancy in the office of Fire Chief
- f. **Fire Chief** means the person appointed by Council to act as Fire Chief for the Corporation and is ultimately responsible to Council as defined in the Fire Protection and Prevention Act
- g. **Fire Department** means the Township of Wainfleet Department of Fire and Emergency Services
- h. **Firefighter** means any person employed in, or appointed to, a Fire Department and assigned to undertake Fire Protection Services, and includes a Volunteer Firefighter who provides Fire Protection Services voluntarily or for a nominal consideration, remuneration or honorarium, training or activity allowance. For the purposes of Labour Relations means a person regularly employed on a salaried basis either full or part-time in a Fire Department and assigned to Fire Protection Services and includes technicians but does not include a Volunteer Firefighter and whereas Part IX of the Fire Protection and Prevention Act would apply
- i. **Fire Protection Services** includes fire suppression, fire prevention, fire safety education, communication, training of persons involved in the provision of Fire Protection Services, rescue and emergency services and the delivery of all those services
- j. **Limited Services** means a variation of services significantly differentiating from the norm as a result of extenuating circumstances, such as personnel and equipment availability, environmental factors, obstructions, remote properties, private road ways, lanes, and drives
- k. **Member** means any persons employed in, or appointed to, a Fire Department and assigned to undertake Fire Protection Services, and includes officers, full time, part time and Volunteer Firefighters
- l. **Volunteer Firefighter** means a Firefighter who provides Fire Protection Services either voluntarily or for a nominal consideration, honorarium, training or activity allowance

### **Fire Department Establishment**

2. A Fire Department for the Township of Wainfleet to be known as the Township of Wainfleet Fire & Emergency Services is hereby established and the head of the Fire Department shall be known as the Fire Chief and shall be responsible for its proper and efficient administration and operation.

3. The Fire Department "Mission Statement and Goals" are as stated in **Schedule "A"**, attached hereto and forming part of this by-law.

### **Structure**

4. The Fire Department shall be structured in conformance with the Approved Organizational Chart, **Schedule "B"**, attached hereto and forming part of this by-law.
5. Firefighters of the Township of Wainfleet Fire & Emergency Services for the purposes of "WSIB" Workplace Safety Insurance Board shall be defined as Volunteer Firefighters.
6. In addition to the Fire Chief, the Council may appoint a Deputy Chief and such number of other officers and Members as may be deemed necessary by the Council
7. The Fire Chief may hire any qualified person as a Member of the Fire Department subject to the Approved hiring policies of the Township of Wainfleet Fire Department.
8. Persons appointed as Members of the Fire Department to provide Fire Protection Services shall be on probation for a period of 12 months, during which period they shall take such special training and examination as may be required by the Fire Chief.
9. The remuneration of the Volunteer Firefighters shall be as determined by the Council from time to time.
10. If a probationary Member appointed to provide Fire Protection Services fails any such special training and examination, the Fire Chief may dismiss and/or take appropriate action as authorized by Council.
11. The Fire Chief may reprimand, suspend, or in consultation with the Chief Administrative Officer, dismiss any Member for infraction of any provisions of this By-law, policies, general orders and departmental rules, procedures or guidelines that, in the opinion of the Fire Chief, would be detrimental to discipline or the efficiency of the Fire Department.
12. Disciplinary action or dismissal of a Volunteer Firefighter shall be conducted in accordance with the Approved Fire Department and human resources policies.

### **Duties and Responsibility**

13. The Fire Chief is ultimately responsible to Council for their statutory duties under the Fire Prevention and Protection Act and is responsible to Council through the

Chief Administrative Officer for proper administration and operation of the Fire Department including the delivery of Fire Protection Services.

14. Each division of the Fire Department is the responsibility of the Fire Chief and is under the direction of the Fire Chief or a Member designated by the Fire Chief. Designated Members shall report to the Fire Chief on divisions and activities under their supervision and shall carry out all orders of the Fire Chief.
15. The Fire Chief shall be authorized to make such orders, policies, procedures and rules, and to take such other measures as the Fire Chief may consider necessary for the proper and efficient administration and operation of the Fire Department for the prevention, control and extinguishment of fires, the protection of life and property, and the management of emergencies within the Township and, without restricting, the generality of the foregoing;
  - a. For the care and protection of all property belonging to the Fire Department;
  - b. For arranging for the provision of necessary and proper facilities, apparatus, equipment, materials, services and supplies for the Fire Department;
  - c. For determining and establishing for consideration by Council and the Chief Administrative Officer, the qualifications and developing criteria for employment or appointment and the duties of all the Officers, members and administrative staff of the Fire Department;
  - d. For the conduct and the discipline of Officers, members and administrative staff of the Fire Department, in keeping with Corporation's policies, programs, and any pertinent collective agreement;
  - e. For preparing and, upon approval by the Council, implementing and maintaining a Fire Service Master Plan and Program for the Corporation;
  - f. For coordinating the Fire Service Master Plan and Program adopted by the Council with any Emergency Plans, organizations, services or measures established or to be established by the Corporation and, if requested, any Emergency Plan established or to be established by the Province of Ontario of the Government of Canada and for coordinating with and assisting any other public official in an emergency declared by the Mayor of the Corporation, the Premier or Ontario or the Governor in Council;
  - g. During short term absences of the Fire Chief, for the appointment of an Acting Fire Chief;
  - h. During long term absences of the Fire Chief, the CAO shall recommend to Council the appointment of an Acting Fire Chief;

- i. For ensuring that a Duty Officer is available to assist the members of the Department on a 365/24/7 basis;
  - j. For keeping an accurate and readily available record for all fires, rescues and emergencies responded to by the Fire Department and for keeping such other records as may be required by Council;
  - k. For preparing and presenting the Annual Report for the Fire Department to Council, and;
  - l. For preparing and presenting the Annual Budget of the Fire Department to Council.
16. The Fire Chief shall be responsible for the enforcement of this By-law and all general orders, policies, procedures and rules made under this By-law and for the enforcement of all fire protection service By-laws of the Town, and shall review periodically such By-laws and may establish a Committee of Officers and other persons as the Fire Chief may determine from time-to-time to assist in the periodic review.

### **Policies and Procedures**

17. The Fire Chief shall implement all Approved policies and shall develop such standard operating procedures and guidelines, general orders and departmental rules as necessary to implement the Approved policies and to ensure the appropriate care and protection of all Fire Department personnel and equipment.
18. The Fire Chief shall review periodically all policies, orders, rules and operating procedures of the Fire Department and may establish an advisory committee consisting of such Members of the Fire Department as the Fire Chief may determine from time to time to assist in these duties.
19. The Fire Chief may recommend to the Council such amendments to the By-laws as the Fire Chief considers appropriate and may revise or terminate such general orders, policies, procedures, and rules made under this By-law as the Fire Chief considers appropriate.

### **Budgets and Reports**

20. The Fire Chief shall submit to the CAO and Council for approval, the annual budget estimates for the Fire Department an annual report and any other specific reports requested by the CAO and/or Council. Council will consider the level of service provided by the Fire Department annually when setting the annual budget

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**Powers**

21. The Fire Chief shall be the head of the Fire Department and shall be responsible for its proper and efficient administration and operation.
22. The Fire Chief or their designate, shall exercise all powers mandated by the Fire Protection and Prevention Act, and the Fire Chief shall be empowered to authorize:
  - a. Fire Service personnel to have command at fires and emergencies over all Members of the Fire Department, and all other persons who may be present, and may direct the extinguishing of the fire or other emergency and the protection of life and property;
  - b. Fire Service personnel to enter all lands and premises within the municipality where a fire is occurring or has occurred;
  - c. Fire Service personnel to investigate all fires and report to the Fire Marshal as required by the Fire Protection and Prevention Act;
  - d. the pulling down or demolishing any building or structure to prevent the spread of fire;
  - e. all necessary actions which may include boarding up or barricading of buildings or property to guard against fire or other danger, risk or accident, when unable to contact the property owner;
  - f. recovery of expenses incurred by such necessary actions for the Corporation in the manner provided through the Municipal Act and the Fire Protection and Prevention Act; and
  - g. the enforcement of this By-law and the general orders, procedures and regulations of the *Fire Department*.
23. The Fire Chief shall have all powers, rights and duties assigned to a Fire Chief under the Fire Protection and Prevention Act, 1997, including without limitation, the authority to enforce compliance with the Fire Code made under the Fire Protection and Prevention Act, 1997.

**Emergency Response Outside of Municipal Boundaries**

24. The Fire Department shall not respond to a call with respect to a fire or emergency outside the limits of the municipality except with respect to a fire or emergency:

- a. that, in the opinion of the Fire Chief or designate of the Fire Department, threatens property in the municipality or property situated outside the municipality that is owned or occupied by the municipality;
  - b. in a municipality with which an Approved agreement has been entered into to provide Fire Protection Services which may include automatic aid;
  - c. on property with which an Approved agreement has been entered into with any person or Corporation to provide Fire Protection Services;
  - d. at the discretion of the Fire Chief, to a municipality authorized to participate in any county, district or regional mutual aid plan established by a fire coordinator appointed by the fire marshal or any other similar reciprocal plan or program;
  - e. on property beyond the municipal boundary where the Fire Chief or designate determines immediate action is necessary to preserve life or property and the appropriate department is notified to respond and assume command or establish alternative measures, acceptable to the Fire Chief or designate.
25. In consultation with the Chief Administrative Officer, the Fire Chief shall be authorized to enter into and execute Fire Protection Agreements including but not limited to, Mutual Aid, Automatic Aid, and Memorandums of Understanding.

### **Levels of Service**

26. The Township of Wainfleet Fire Department shall provide such Approved services as specified and listed in Schedule "B". The Fire Department may respond to rescues and emergencies other than those listed in Schedule "B", with the approval of the Fire Chief or his designate.
27. Due to the Fire Department's reliance upon Volunteer Firefighters, the topographic and geographic configuration of the Township, the level and amount of equipment at the department's disposal, and other budgetary constraints, the services listed in Schedule "B", although Approved, may be provided as "Limited Services" as defined in Section 1 of this By-law.
28. The Corporation of the Township of Wainfleet shall be under no obligation to provide services, and accepts no liability for the delay or inability to supply the services set out in Schedule "C" of this By-law due to the provision of its Approved services as Limited Services, where such delay or inability is the result, directly or indirectly, the existence of unsafe conditions encountered en route, impeded access to property, and/or environmental factors/constraints, or any other constraints which impact the delivery of services or which may create an unsafe condition

**Conflict**

29. Where this By-law may conflict with any other by-law setting out the powers and duties of a Municipal Officer or a Municipal Department, this By-law shall supersede and prevail over that other By-law to the extent of the conflict.

**Severability and Validity**

30. Should any section, subsection, clause, paragraph or provision of this by-law be declared by a court of competent jurisdiction to be invalid, the same shall not affect the validity of this by-law as a whole or any part thereof, other than the provisions so declared to be invalid.

**Repealed By-laws**

31. By-law No. 043-2018 is repealed and any by-laws previously providing for the establishment and regulation of the Township of Wainfleet Fire & Emergency Services are hereby repealed.

**Force & Effect**

32. This By-law shall come into force and take effect on the final passage thereof.

BY-LAW READ AND PASSED THIS 22<sup>nd</sup> DAY OF OCTOBER, 2019

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K. Gibson, MAYOR

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M. Ciuffetelli, DEPUTY CLERK