

**BY-LAW NO. 13-96
of the Chippewas of Nawash First Nation**

**A BY-LAW FOR THE PRESERVATION,
PROTECTION AND MANAGEMENT OF FISH**

WHEREAS the Council of the Chippewas of Nawash First Nation desires to make a by-law governing the preservation, protection and management of fish in Band waters, matters ancillary thereto, and a penalty for the violation thereof;

AND WHEREAS the Council of the Chippewas of Nawash First Nation has the power to make such by-law pursuant to paragraphs 81(1)(o), (q) and (r) of the Indian Act;

AND WHEREAS it is considered to be expedient and necessary to provide for the preservation, protection and management of fish in Band waters;

NOW THEREFORE the Council of the Chippewas of Nawash First Nation hereby makes the following by-law:

Short Title

1. This by-law may be cited as the "Chippewas of Nawash First Nation Fishing By-law."

Interpretation

2. In this by-law,

"band waters" means all those bodies of water over which the Chippewas of Nawash First Nation has jurisdiction;

"commercial fishing" means fishing for commerce and includes fishing for trade and barter;

"Council" means the Band Council, as defined in the Indian Act of the Chippewas of Nawash First Nation;

"First Nation" means the Chippewas of Nawash Band of Indians;

"fish" means, when used as a noun, all aquatic animals and when used as a verb means to catch fish or to attempt to catch fish by any method;

"Fishery Officer" means a fishery officer appointed under section 3 and includes an officer who has been designated by Council, pursuant to section 4 to administer and enforce this by-law;

"fishing equipment" includes but is not restricted to fishing gear such as nets, buoys, and floating buoy lines;

"nets" includes but is not restricted to gill nets;

"officer" means a police officer, police constable or other person charged with the duty to preserve and maintain the public peace, and a by-law enforcement officer or any other person appointed by Council for the purpose of maintaining law and order on the reserve pursuant to a by-law enacted for that purpose.

Administration

3. (1) Council may by resolution appoint one or more fishery officers to perform such functions in respect of the administration and enforcement of this by-law as are prescribed herein.
- (2) Council may, in the resolution, provide for reasonable remuneration to be paid to a fishery officer appointed under subsection (1).
4. Council may designate any officer to perform such functions in respect of the administration and enforcement of this by-law as are prescribed herein to be performed by a fishery officer.

Fishing by Band Members

5. Subject to the provisions of this by-law, members of the Band may fish in Band waters at any time.

Commercial Fishing Activities by Band Members

6.
 - (1) A person who is a member of the Band may apply to Council for a commercial fishing licence to engage in commercial fishing activities within Band waters.
 - (2) A commercial fishing licence shall be in effect for such period of time as Council may direct by resolution, and may be renewed by Council from time to time on application.
 - (3) The application shall specify
 - (a) the place for which the commercial fishing licence is sought;
 - (b) the species of fish for which the commercial fishing licence is sought;
 - (c) the type of fishing equipment to be used;
 - (d) such other information as is required to enable Council to address the considerations set out in subsection (3) and the criteria set out in subsection (4).
 - (4) Council shall take into consideration, in determining whether or not a commercial fishing licence should be issued, whether or not the applicant has previously held a licence and, if so, has complied with the provisions of the commercial fishing licence and this or any other by-law with respect to fishing.
 - (5) Where Council determines that the applicant is a suitable person to have a commercial fishing licence to fish in Band waters, Council may issue a written commercial fishing licence or renewal thereof authorizing the applicant to fish in Band waters.
 - (6) A commercial fishing licence issued pursuant to this section is non-transferable.
7. Council may, by resolution, impose terms and conditions affecting any licence issued under section 6 including

- (a) the species and quantities of fish that are permitted to be taken or transported by licence-holders;
 - (b) the method to be used to mark and identify vessels and fishing gear;
 - (c) the locations and times at which landing of fish is permitted;
 - (d) the method to be used for landing of fish and the method by which the weight of fish is to be determined;
 - (e) information that licence-holders are to report to Council, prior to the commencement of fishing, with respect to where and when fishing will be carried on, including the method by which, the times at which and the person to whom the report is to be made;
 - (f) the locations and times of inspections of the contents of the hold and the procedures to be used in conducting those inspections;
 - (g) the type and size of fishing gear that may be used by licence-holders;
 - (h) the disposition of fish caught under authority of licences.
- 8.** No member of the Band shall carry on or be engaged in commercial fishing activities within Band waters unless he holds a commercial fishing licence issued pursuant to this by-law.
- 9.** (1) A person fishing under the authority of a commercial fishing licence issued pursuant to section 6 shall have the commercial fishing licence on his person while fishing in Band waters.
- (2) A fishery officer may at any time require any commercial fishing licence holder fishing in Band waters to produce his commercial fishing licence.

10. Council may, after notice and hearing, cancel the commercial fishing licence of any person where it is satisfied that the person has contravened the terms of the commercial fishing licence or this by-law.
11. Any commercial fishing licence issued under this by-law shall be subject to laws and resolutions passed by Council including by-laws passed after the commercial fishing licence has been issued.

Variation or Restriction Imposed by Council

12.
 - (1) Council may, by resolution, impose, vary or restrict terms and conditions of licences issued under section 6.
 - (2) Council may, at any time, specify or impose a variation or restriction on fishing by persons authorized by this by-law to fish in Band waters by giving notice in accordance with subsections (3) and (4).
 - (3) Notice of the variation or restriction shall be posted in the office of the Band Council not less than 48 hours prior to the variation or restriction coming into effect.
 - (4) The notice shall specify the date and time the variation or restriction is to come into force and to cease and the particulars of the variation or restriction imposed.
 - (5) No variation or restriction shall remain in force after the date and time specified in the notice for its ceasing has expired, unless a further variation or restriction is imposed and further notice is given in accordance with subsections (2) and (3).

Fishing Equipment and Nets

13. No person authorized to fish under this by-law shall set, have in the water or lift a net from the water unless:
 - (a) a buoy, marker or stake is attached to each end of the net;
 - (b) each buoy, marker or stake is legibly marked with the person's Chippewas of Nawash Registry Number;

- (c) the person's Chippewas of Nawash Registry Number is visible without the necessity of raising gear from the water.
14. Council may, by resolution, specify the period of time after which stakes, posts, buoys or other materials in Band waters shall be removed.
 15. Council may, by resolution, specify or restrict the type, size, identification and placement of nets that may be used within Band waters, and without limiting the generality of the foregoing, may specify or restrict the mesh sizes of nets that may be used within Band waters.
 16. Council may, by resolution, specify the areas in which nets may or may not be set and the times during which nets may or may not be set.
 17. Council may, by resolution, specify the period of time after which nets shall be lifted.
 18. Where, in the opinion of a fishery officer, based on reasonable grounds, the placing of nets or other fishing equipment in Band waters is unsafe, or excessively restricts the passage of fish, or does not otherwise comply with the provisions of sections 13, 14, 15, 16 or 17, the fishery officer may order the removal or relocation of any such net or fishing equipment by the person in control thereof, and any person so ordered shall comply with the direction of the fishery officer.
 19. A fishery officer may remove any net or fishing equipment situated in Band waters if the fishery officer is of the opinion that the presence of the net or fishing equipment is unsafe or excessively restricts the passage of fish or otherwise does not comply with the provisions of sections 13, 14, 15, 16 or 17.

Data Assessment Programme

20. Council may, by resolution, institute a data assessment programme of fishing activities within Band waters, which may include a requirement that Band members fishing under the authority of this by-law provide information concerning
 - (a) the number of fish taken under the authority of this by-law;
 - (b) the date nets were lifted;

- (c) the number of yards of net lifted;
- (d) the species of fish harvested;
- (e) the total weight of each species harvested and the form in which the species was weighed;
- (f) the name of the person required to complete the report;
- (g) the signature of the person required to complete the report, and
- (h) any other information which may be required.

21. Any person engaged in fishing activities within Band waters under the authority of this by-law shall comply with any data assessment programme instituted pursuant to this by-law.

Enforcement

22. A fishery officer may inspect nets, other fishing equipment, boats and structures that are situated on or upon Band waters or on ice over Band waters for the purpose of determining the number and species of fish caught in Band waters by any person authorized to fish under this by-law.
23. A person who fails to observe or who otherwise contravenes any provision of this by-law or the provisions of any resolution or any order made or variation or restriction imposed pursuant to this by-law commits an offence.
24. A person who resists or wilfully obstructs a Fishery Officer in the performance of any duty or in the exercise of any power under this by-law commits an offence.
25. Where an act or omission in contravention of this by-law or of any order made or variation or restriction imposed hereunder continues for more than one day, such act or omission shall be deemed to be a separate offence committed on each day during which it continues and may be punished as such.

Penalty

- 26. A person who commits an offence under this by-law is liable on summary conviction to a fine of at least one hundred dollars and on a second or further offence to a fine not exceeding one thousand dollars or imprisonment for a term not exceeding 30 days or to both.

This by-law is hereby made at a duly convened meeting of the Council of the Chippewas of Nawash First Nation this 18th day of April, 1996.

Voting in favour of the by-law are the following members of Council:

Ralph Akwesjé
Chief

Councillor

Councillor A. Akwesjé

Councillor [Signature]

Councillor [Signature]

Councillor [Signature]

Councillor [Signature]

Councillor

being the majority of those members of the Council of the Chippewas of Nawash First Nation present at the aforesaid meeting of Council.

The quorum of Council is 4 members.

Number of members of Council present at the meeting: 5.

I, Ralph Akiwenzie Chief/Councillor of the Chippewas of Nawash First Nation, do hereby certify that a true copy of the foregoing by-law was mailed to the Minister of Indian Affairs and Northern Development at the Hull Office pursuant to subsection 82(1) of the Indian Act this 19th day of April, 1996.

Debbie Johnston
(Witness)

Ralph Akiwenzie
(Chief/Councillor)

This by-law was approved by the Minister of Indian Affairs and Northern Development pursuant to section 83(a.1) of the Indian Act by order dated the _____ day of _____, 1996.

(see file # _____)