

THE SAMIAJIJ MIAWPUKEK BAND

Fire Prevention By-Law NO 1993(1)

A By-Law to provide for the prevention of fire and the protection of persons and property

Enacted on the 10 day of NOVEMBER 1993

Whereas it is deemed to be expedient to prevent the outbreak of Fire for the Health and Welfare of the inhabitants, in order to maintain law and order and to prevent nuisances on the Samiajij Miawpukek Indian Reserve;

And whereas paragraphs 81(1) (a),(c),(d),(h),(q) and (r) of the Indian Act empowers Council of the Band to make by-laws to provide for the health of residents on the reserve for the observance of law and order, for the prevention of disorderly conduct and nuisances, for regulation of the construction repair, and use of buildings, with respect to any matter arising out or ancillary to the exercise of powers under Section 81, and for the imposition of a penalty for a violation thereof;

Now therefore the Council of the Miawpukek Band, pursuant to Section 81, of the Indian Act, enacts as a by-law thereof as follows:

Short Title

1. This by-law may be cited as the "Miawpukek Band Fire Prevention By-Law".

Interpretation

2. In this by-law:

"Approval" means the acceptance as satisfactory to the Miawpukek Band Fire Chief.

"Band" means the Samiajij Miawpukek Band.

"Band Council" means the Council of the Miawpukek Band as defined by the custom of the Band.

"Fire Chief" means the person appointed from time to time by the Miawpukek Band Council to carry out the duties and responsibilities under this by-law.

"Peace Officer" includes any member of the Miawpukek Police Force, and any member of the Royal Canadian Mounted Police (RCMP).

"Reserve" means that tract of land set apart by Her Majesty for the use and benefit of the Band known as the Samiajij Miawpukek Indian Reserve No. 047.

#### Enforcement

3. (1) The Band Council may appoint, from time to time, a Fire Chief (s) and assistants as it sees fit, for the purpose of enforcing and carrying out the duties and responsibilities as set out in the by-law.
- (2) The Fire Chief his or her assistant or a Peace Officer shall take all proper measures for the enforcement of all codes and by-laws respecting fire prevention, life safety and responsibilities as set out in this by-law.

#### Vacant Buildings

4. (1) The owner of any vacant building on the Reserve shall be responsible for the said building at all times.
- (2) The Owner of a vacant building shall ensure that;
  - (a) Windows, doors and all other openings which may provide entry are kept secure and boarded at all times; and,
  - (b) All vacant buildings are kept free of newspapers, magazines, broken furniture, old clothing, rages, paint cans, garbage and any other material that may burn.

#### Fire Damaged Buildings

5. (1) The owner of any fire damaged building shall ensure that the premises are guarded, or that all openings in the building are kept securely closed and fastened so as to prevent entry of unauthorized persons.
- (2) Failure to provide the necessary security to the fire damaged building within a reasonable time may cause the Fire Chief to have the work performed by the Miawpukek Band, by its employees and others at the expense of the owner.

### Entry in Inspection

6. No person shall obstruct, hinder or prevent the Fire Chief or Peace Officer from entering into or upon lands, premises, yards, or buildings, other than single family dwellings, for the purposes of inspecting or testing the same in the ordinary course of his or her duties where there is reasonable grounds that a section of this by-law has been contravened.

### Assistance in Inspection

7. The owner, occupier, or lessee of a building or property or any other person having knowledge of a building or property shall, upon request, give to the Fire Chief or Peace Officer, who are carrying out an inspection of the building or property, such assistance as he or she may require in carrying out the inspection.

### Burning

#### Open air burning

8. (1) Except as hereinafter provided, no person shall light, ignite or start, or allow, or cause to be lighted, ignited or started, a fire in open air.
- (2) The Fire Chief may issue a special permit for open air burning of materials other than garden refuse as detailed in Subsections 8(1) and 9(1).
- (3) Materials resulting from the demolition of a building or from other construction related activity may only be burned on site with the approval of the Fire Chief.
- (4) Every person to whom a special permit has been issued under sub-section (2) shall place and keep a competent person at all times in charge of such fire while the same is burning or smouldering and until such fire is completely extinguished and shall provide the person with sufficient equipment in order to prevent the fire from getting beyond control or causing damage or becoming dangerous to life and property. These fires shall not be started when wind and weather conditions are such that a fire is likely to be hazardous.

- (5) The Fire Chief may refuse to issue or cancel a special permit whenever burning, having regard to all circumstances, which would be hazardous or create a nuisance.

#### Burning Without a Permit

9. (1) Without a special permit being secured, dry garden refuse or brush, grass, weeds, cuttings and like materials resulting from the cleaning of gardens and lots may be burned in open air in small fires at times designated and advertised by the Fire Prevention Officer.
- (2) Every person who starts a fire during a designated open burning period shall place and keep a competent person at all times in charge of such fire while the same is burning or smouldering and until such fire is completely extinguished and shall provide that person with sufficient equipment in order to prevent the fire from getting beyond control or causing damage or becoming dangerous to life or property. These fires shall not be hazardous or create a nuisance.
- (3) Burning during the designated open burning period shall be carried out only during daylight hours.
- (4) This regulation does not apply to:
  - (a) Small confined fires used for cooking food in grills and barbecues;
  - (b) Necessary burning authorized by Band Administration.
- (5) A portable incinerator or other portable device or appliance such as a drum for burning garbage, rubbish or other waste material shall not be erected or used nor shall any enclosed fire be built, set or maintained outside the walls of a building without a permit from the Fire Chief.

#### Public Assistance and Fire Control

10. (1) No person shall impede, hinder or obstruct the extinguishment of a fire. Any person who fails to comply with the orders or instruction of the Fire Chief or any member of the Miawpukek Fire Department engaged in the extinguishment of a fire shall be liable to the penalties

provided herein and such person may be forcibly removed from the scene of such emergency or fire by a peace officer or fire-fighter.

- (2) No person shall refuse to permit any member of the Miawpukek Fire Department to enter into or upon any premises for which an alarm of fire has been received or in which such member on reasonable grounds suspects a fire exists.

#### Issuance of Order

11. (1) If the Fire Chief finds that any provisions of this by-law has been contravened or has not been complied with, or has been complied with improperly or only in part, or that conditions exist in or upon a property to which the by-law applies and which, in his opinion, constitutes a fire hazard or otherwise constitutes a hazard to life or property, he may make such order to insure full and proper compliance with this by-law and in particular, but without limiting the generality of the foregoing he or she may:
  - (a) Make to the owner, occupier, permittee or lessee of the property such recommendation as he or she deems necessary to correct the contravention or to ensure compliance with this by-law or to remove the hazard referred to in the by-law or,
  - (b) Make such orders as he or she deems necessary with respect to any of the matters referred to in this by-law.
- (2) An order made under this by-law shall be in writing and shall be directed to either the owner, occupier, permittee or lessee of the property in respect of which the order is made or to both.

#### Service of Order

12. A order made under this by-law shall be served by
  - (a) Delivering it or causing it to be delivered to the person to whom it is directed, or
  - (b) sending the order by return registered mail to the address of last known property owner.

Compliance with Order

13. Every person served with an Order made under the by-law shall fully comply with the terms of the order.

Penalties

14. Every person who violates any of the provisions of this by-law is guilty of an offence and liable on summary conviction to a fine not exceeding one thousand dollars (\$1,000.00) or imprisonment for a term not exceeding thirty (30) days, or both.

This By-Law is hereby made at a duly convened meeting of the Council of the Samiajij Miawpukek Band this \_\_\_\_\_ day of \_\_\_\_\_ 1993.

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

- 1. *Brian Benoit*
- 2. *[Signature]*
- 3. *[Signature]*
- 4. *Cary Benoit*
- 5. *Mary Stude*
- 6. \_\_\_\_\_

being the majority of those members of the Council of the Samiajij Miawpukek Band present at the aforesaid meeting of the Council.

The quorum of the Council is four (4) members. Number of members of Council present at the meeting 5.

I, Geraldine Kelly, Chief of the Samiajij Miawpukek Band, 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 Regional Hull office, Ottawa, Ontario, pursuant to subsection 82(1) of the Indian Act this 10 day of NOVEMBER 1993.

*[Signature]*  
Witness

*Geraldine Kelly*  
Chief

**MORLEY RAYMOND COSIER**  
A Commissioner for Oaths in and for  
Newfoundland. My appointment  
expires the 31st. day of December,  
A.D., 1995.