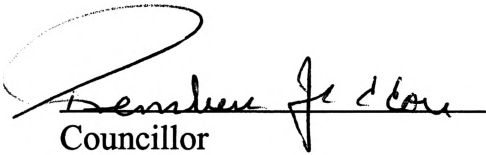


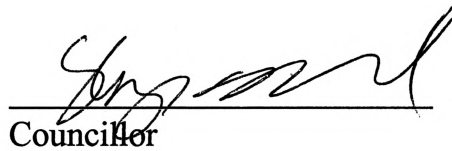
**Community Zoning By-Law No. 01 - 09**  
**Being a By-Law to repeal and replace**  
**Community Zoning By-Law No. 2008**  
**Enacted on the 7 day of June 20 08.**

**AND WHEREAS the Council of the Band enacted Community Zoning By-Law No. 01 - 09 on the 20th day of April , 20 09 , thereby repealing the said Community Zoning By-Law No. 2008 and replacing it with Community Zoning By-Law No. 01 - 09.**

Approved and passed at a duly convened meeting of the Council,

this 20 day of April , 20 09 ,

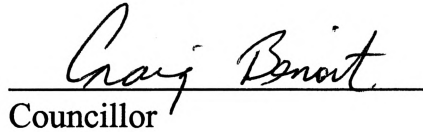
  
Councillor

  
Councillor

  
Councillor

  
Councillor

  
Councillor

  
Councillor

The quorum is set at \_\_\_\_\_ .

I, Misel Joe , Chief of the Band of Indians do hereby certify that an original of the foregoing By-law 01-09 was mailed to the Minister of Indian Affairs pursuant to section 82, ss (i) of the *Indian Act*, this 20th day of April , 20 09

  
Chief

  
Witness

**THE SAMIAJIJ MIAWPUKEK FIRST NATION**

**Community Zoning By-Law No. 01-09**

**A By-law Dividing the Reserve into Zones  
and Regulating the Use of Land**

**WHEREAS** the Council of the Miawpukek First Nation desires to make a by-law dividing the reserve into zones and regulating the use of land;

**AND WHEREAS** the Council of the Miawpukek First Nation is empowered to make such by-law, and with respect to any matter arising out of or ancillary to the exercise of the power, and for the imposition of a penalty for a violation thereof, pursuant to paragraphs 81(1) (b), (c) and (r) of the *Indian Act*.

**NOW THEREFORE** the Council of the Miawpukek First Nation enacts the following by-law;

**PART 1 - GENERAL**

**SHORT TITLE**

1. This by-law may be cited as the “Miawpukek First Nation Community Zoning By-Law.”

**DEFINITIONS**

2. In this by-law

**Accessory building or structure** means a detached building or structure, the use of which is incidental or secondary to that of the main building;

**Accessory use** means a use of which is incidental or secondary to that of the main building;

**Agriculture** means a use of land, buildings or structures for the purpose of field crops or fruit, market gardening, dairying, animal husbandry, poultry raising, bee keeping and such uses as are customarily and normally related to agriculture;

**Apartment dwelling house** means the whole of a building not otherwise defined herein, which contains a dwelling unit used for rental;

**Assembly hall** means a building or part of a building in which facilities are provided for

such purposes as meetings for civic, education, political, religious or social purposes, and includes a banquet hall;

**Attached** means a building otherwise complete in itself, which depends for structural support or complete enclosure, upon a division wall or walls shared in common with adjacent building or buildings;

**Band** means the Miawpukek First Nation Band;

**Bed and breakfast** means an establishment that provides lodging and breakfast;

**Buffer zone** means a strip of land left undisturbed to preserve or enhance or reduce the effect of an impact of development within a specific zone;

**Building** means any structure used or designed to be used for shelter, accommodation or enclosure of persons, animals, or chattels;

**Business and professional office** means an office in which any business is carried on or any profession is practiced;

**Cabin** means a dwelling in the country, used for vacations; not a permanent residential dwelling;

**Community center** means buildings or any part of any buildings used for community activities, whether used for commercial purposes or not, and the control of which is vested in the band council;

**Conservation area-ecological** means an area where there are special regulations on building and development in order to maintain the ecological characteristics of the area;

**Conservation area-historical** means an area where there are special regulations on building and development in order to maintain the historical characteristics of the area;

**Contractor** means a skilled person who is retained to perform construction activities (including but not limited to carpentry, electrical, heavy equipment, plumbing, welding, and mechanical);

**Convenience store** means a retail commercial establishment supplying groceries, sundries and other daily household necessities to the immediate surrounding area;

**Council** means the Council of the Miawpukek Band, as defined in the Indian Act;

**Dwelling** means a house or residence;

**Dwelling - duplex** means a building that is divided into two dwelling units, each of which has an independent entrance;

**Dwelling unit area** means the floor area of a dwelling unit measured between the exterior faces of the exterior walls of the dwelling unit;

**Eating establishment** means a building or part of a building where food is offered for sale or sold to the public for immediate consumption therein, and includes a restaurant, café, tea or lunch room, dairy bar, and refreshment room or stand, but does not include a boarding or lodging house;

**Environmentally sensitive area** means a fragile ecosystem area where valuable ecological features, habitat, or species are protected from development;

**Erect** means build, construct, reconstruct, or any altering of an existing building by an addition, extension or other structural change;

**Farm** means land used for the tillage of soil and the growing of vegetables, fruits, grains and other staple crops, and includes land used for livestock raising, dairying or woodlots;

**Garage, commercial** means a building, structure or lot where vehicles may be stored or where vehicles are repaired or maintained;

**Gas bar** means a gas station without a garage, consisting of a kiosk and pumps only;

**Gravel pit** means any open excavation made for the removal of any soil, earth, clay, sand, gravel or unconsolidated rock or mineral in order to supply material for construction, manufacturing or industrial purposes;

**Group home** means a home where several related and or unrelated people live together under supervision or care;

**Hazard land** means land which is not suitable to be used for the erection of any building because it is on a flood plain, is subject to erosion, has steep slopes, has organic soil or has a high water table;

**Height** means, when used with reference to a building, the vertical distance between the finished surface of the ground and the highest point of the building;

**Home industry** means a use accessory to a single family dwelling, and includes a carpentry shop, a craft shop, a plumbing shop, a metal working shop, an electrical shop, a welding shop, a storage building for school buses, boats or snowmobiles, a repair shop for farm equipment, or any similar use;

**Home worker** means a person who makes things or carries out a profession at home or on

the general premises of the home;

**House** means a structure serving as a dwelling for one or more persons, especially for a family;

**Miawpukek Protected Watershed** means an area designated by the Miawpukek Band Government as a protected watershed area for the purposes of obtaining drinking water;

**Minor Variance** means a method for property owners to seek relief or variance, through an application process, when circumstances make it difficult to meet the standards in the zoning by-law;

**Mobile home** means a large transportable structure equipped with living accommodations and used as a residence;

**Non-conforming** means that which does not conform, comply or agree with the provisions of this by-law as of the date it was made;

**Noxious use** means any use which is offensive or dangerous by reason of the emission of odor, smoke, dust, noise, light, gas, fumes, vibration or refuse matter;

**Nursery** means a place used for the growing of sod, flowers, bushes, trees or other gardening, landscaping or orchard stock for wholesale or retail trade;

**Official plan** means a document that designates for use and development land on the reserve and is accompanied by maps and charts;

**Person** includes an individual, an association, a chartered organization, a firm, a partnership and a corporation;

**Place of entertainment** means indoor or outdoor place such as a motion picture or other theater, arena, auditorium, public hall, billiard or pool room, bowling alley, ice or roller skating rink, dance hall, music hall, bingo hall, amusement arcades, but does not include any place of entertainment or amusement otherwise defined or classified herein;

**Reasonable hours** means 8am to 9pm seven days a week;

**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;

**Residence** means the permanent place in which one lives; a person's home or house;

**Resident** means any person lawfully in possession of land, buildings or who resides on land or in buildings within the reserve;

**Restaurant** means commercial establishment where meals are prepared, served and eaten on the premises;

**Retail store** means a building or establishment where merchandise and services are available for sale at retail prices;

**Stone quarry** means any open excavation made for the removal of any consolidated rock or mineral, including limestone, sandstone or shale, in order to supply material for construction, industrial or manufacturing purposes;

**Structure** means anything constructed or erected, the use of which requires location on or in the ground or attached to something having location on or in the ground;

**Take out** means commercial establishment where meals are prepared, served and sold and not eaten on the premises;

**Water setback** means the straight line horizontal distance from the high water mark of a watercourse, bay or lake to the nearest part of any excavation, building, structure or open storage use on the land;

**Zone** means a designated area of land subject to particular planning restrictions as shown in Schedule "A";

**Zoning administrator** means the person appointed or designated by the Council under this by-law and charged with the duty of administering and enforcing the provisions of this by-law.

### **Application of By-Law**

3. (1) The provisions of this by-law apply to all lands of the reserve of the Indian Band as shown on Schedule "A".
- (2) Schedule "A", which is attached hereto, is a part of this by-law as fully and to all intents and purposes as though recited in full herein.

## **PART II - ADMINISTRATION**

### **Zoning Administrator**

- 4 (1) The Council may, by resolution, appoint or designate a person as Zoning Administrator, whose duty it shall be to administer and enforce this by-law.

- (2) The Council may, in the resolution, provide for reasonable remuneration to be paid to the Zoning Administrator.

### **PART III - GENERAL ZONING PROVISIONS**

#### **Prohibition**

5. (1) No building or structure shall hereafter be erected or altered, nor shall the use of any land, building or structure hereafter be changed, in the whole or in part, except in conformity with the provisions of this by-law.
- (2) Notwithstanding any other by-law of the Council, no building permit shall be issued where the proposed building, structure or use would be in violation of any provision of this by-law.

#### **Non-Conforming Uses**

6. (1) Subject to Subsection (2), nothing in this by-law prevents the use of any land, building or structure for any purpose prohibited by the by-law if such land, building or structure was lawfully used for such purpose on the day this by-law was made, so long as it continues to be used for that purpose.
- (2) If a non-conforming use should be damaged or destroyed by causes beyond the control of the owner, this by-law restricts the structure to be restored to the non-conforming use.

#### **Prior Building Permits**

7. Nothing in this by-law prohibits the erection of a building or structure for which a building permit was issued prior to the date this by-law was made.

#### **Height**

8. The height limitations of 30 meters will apply to chimneys, church steeples, water tanks, flag poles, television or radio antennas, electrical transmission facilities, ventilators or skylights.

**Accessory Buildings and Structures**

9. Accessory uses, buildings and structures, including private garages, are permitted in any zone within the reserve, but shall not
  - a) be used for human habitation, exception where a dwelling is a permitted accessory use;
  - b) exceed eight meters in height in any residential zone;
  - c) be built within two meters of the main building; or
  - d) be considered an accessory building attached to the main building in any way;
  - e) be built closer than two meters to any lot line.

**Frontage on Public Street**

10. No building permit shall be issued for any new structure unless the lot or parcel of land upon which the structure is to be erected abuts and fronts upon a public street. This provision shall not apply to a permit being issued when an existing structure is to be renovated, rebuilt, or moved to another location on its original lot.

**Temporary Permitted Construction Use**

11. Nothing in this by-law prevents uses incidental to construction, such as a construction camp or other such temporary work camp, a tool shed, scaffold or structure incidental to the construction, or a sign not more than four and one-half (4.5) square meters in area incidental to the construction, if these uses are permitted only for so long as they are necessary for work in progress which has neither been finished nor abandoned.
12. These temporary structures will require a permit from the Zoning Administrator.

**Occupancy of Incomplete Buildings**

13. In any zone, no new buildings shall be occupied before the main side walls and roof has been erected and roofing has been completed and, in the case of a dwelling, kitchen, heating and sanitary conveniences have been installed and rendered useful.



### **Setbacks**

14. Buildings and structures erected in any residential zone shall conform to the following setback requirements from road center lines and high water marks of any water course, bay or lake:
  - a) All provincial highways, reserve roads and other roads - 18 meters
  - b) Water setback - a minimum water setback of 15 meters shall be provided, but accessory boathouses and boat decks are not required to meet the water setback.
15. Buildings and structures erected in any commercial / industrial zone shall conform to the following setback requirements from road center lines and high water marks of any water course, bay or lake:
  - a) All provincial highways, reserve roads and other roads - 18 meters
  - b) Water setback - a minimum water setback of 30 meters shall be provided, but accessory boathouses and boat decks are not required to meet the water setback.

### **Occupation of Vehicles**

16. No car, truck, coach or streetcar body shall be used for permanent human habitation in any zone, whether or not mounted on wheels.

### **Mobile Homes**

17. Mobile homes are permitted only in the Mobile Home and Trailer Park Zone.

### **Piece Worker**

18. A piece worker is permitted in any residential zone if
  - a) there is no external display or advertising other than a non-illuminated sign, not more than three tenths of a square meter ( $.3 \text{ m}^2$ ) in area, to indicate to persons outside that any part of the dwelling unit or lot is being used for a purpose other than residential;
  - b) not more than 25% of the dwelling unit area is used for the purpose of the piece worker occupation;
  - c) the home piece work is secondary to the main residential use and does not change

the residential character of the dwelling home or dwelling unit;

- d) there are no goods, wares or merchandise, other than arts and crafts produced on the premises, offered or exposed for sale or rent on the premises;
- e) the piece worker occupation does not create or become a nuisance, in regard to noise, traffic or parking or other noxious uses;
- f) the piece worker occupation does not interfere with television or radio reception; and
- g) no accessory building is used for the piece worker occupation.

### **Noxious Uses**

- 19. No use is permitted which is offensive or dangerous by reason of the emission of odor, smoke, dust, noise, light, gas, fumes, and vibration or refuse matter, or which from its nature or the materials used therein is declared to be a noxious trade, business or manufacturer under the **Canadian Environmental Protection Act**.

### **Home Industry**

- 20. A home industry is permitted in a residential zone if
  - a) not more than 10% or ten square meters (10 m<sup>2</sup>) of the dwelling unit area, whichever is the lesser, is used for the purposes of the home industry;
  - b) not more than fifty square meters (50 m<sup>2</sup>) of the gross floor area of all accessory buildings are used for the purposes of the home industry; and
  - c) not more than five persons, other than those residing on the premises, are engaged on the premises in the home industry.

### **Gravel Pits, Stone Quarries**

- 21. Gravel pits and stone quarries are prohibited, except in an industrial zone where allowed by permit.

### **Multiple Uses**

- 22. Where any land or building is used for more than one purpose, all provisions of this by-law related to each use shall be satisfied and, where there is a conflict, the higher or more stringent standard shall prevail.

**Parking Requirement**

23. (1) No building permit shall be issued for any new or expanded structure or use unless off-street parking having unobstructed access to a street or lane is to be provided and maintained in conformity with the following schedule:

<b>Type of Building</b>	<b>Parking Requirement</b>
A building containing not more than three (3) dwelling units	One (1) parking space (3 m) for each dwelling unit
All other dwellings except for senior citizens apartments	One and one-half (1.5) parking spaces for each dwelling unit
Churches, church halls, auditoriums, restaurants, theaters, arenas, halls, stadiums, private clubs, and other places of assembly	One (1) parking space for 9 m <sup>2</sup> of floor area devoted to public use
Hospitals, nursing homes, schools	One (1) parking space for 50m <sup>2</sup> of floor area
Senior citizens apartments	One (1) parking space for every two (2) dwelling units
Hotels and motels	One (1) parking space per suite or cabin and inns rental unit plus one (1) additional parking space for each 9 m <sup>2</sup> of floor area which is open to the general public (taverns, restaurants, and auditoria) exclusive
Bowling alleys and curling	Three (3) parking spaces per bowling land and four (4) parking spaces for each curling sheet. For other parts of the building additional parking spaces shall be provided in accordance with the requirements set out in this By-law for the use to which the other parts of the building are to be used
Industrial uses	One (1) parking space for each 50 m <sup>2</sup> of floor space
Medical clinics and medical practitioners offices	Four (4) parking spaces for each practitioner
Convenience Stores	Three (3) parking spaces
All other uses, except home occupations	One (1) parking space for every 30 m <sup>2</sup> of floor space

**Standards for Parking Areas**

24. (1) Where parking facilities for more than four (4) vehicles are provided:
- a) the parking area shall be treated so as to prevent the raising of dust and loose particles;
  - b) the parking area shall be on the same lot as the use it is intended to serve and shall be situated in the same Zone or in a Zone in which parking lots are a permitted use.

**PART IV - Establishment of Zoning Designations**

**Zones**

25. The reserve is divided into the following zones, as shown on Schedule A (Zoning map).

<b><u>Zones</u></b>	<b><u>Zone Symbols</u></b>
Residential	Zone R
Commercial	Zone C
Industrial	Zone I
Hazard Land	Zone HL
Mobile Home and Trailer Park	Zone MHTP
Public Use and Community Facilities Zone	Zone PUCF
Recreational Zone	Zone RC
Cultural/Spiritual/Traditional Zone	Zone CST
Watershed Zone	Zone W
Conservation Zone	Zone CS
Cabin Zone	Zone CB

**Residential (R) Zone Permitted Uses**

26. Land may be used and buildings and structures erected, altered or used in a Residential (R) Zone only for
- a) a single family dwelling, other than a mobile home;
  - b) a two family dwelling, other than a mobile home;
  - c) a duplex dwelling;
  - d) an apartment dwelling;
  - e) a group home, other than a mobile home;
  - f) a piece worker;
  - g) a park or playground;
  - h) convenience store; and
  - i) two accessory buildings whose use is accessory to any of the foregoing permitted uses.

**Residential (R) Zone Specifications**

27. Land may be used and buildings and structures may be erected, altered or used in a Residential (R) Zone only where the following specifications are complied with:

<b>COLUMN 1</b>		<b>COLUMN 2</b>
1	<b>Maximum lot area</b>	38 m x 38 m (1444 m <sup>2</sup> )
2	<b>Lot frontage</b>	
	• Minimum	23 m
	• Maximum	38 m
3	<b>Yard depth</b>	
	• Minimum (Front & Rear)	8 m
	• Maximum (Front)	15 m
4	<b>Minimum side yard width</b>	3 m or half the height of building, whichever is greater
5	<b>Dwelling unit</b>	
	• Minimum dwelling unit area	32 m <sup>2</sup>
	• Maximum principal building height	12 m
6	<b>Accessory building</b>	
	• Maximum accessory building unit area	48 m <sup>2</sup>
	• Maximum accessory building height	8 m
7	<b>Minimum setback</b>	
	• Provincial highways, reserve road, and other roads	18 m
	• Water setback	15 m
8	<b>Minimum setback of accessory building</b>	
	• From principal building	2 m
	• From lot line	2 m
9	<b>Convenience Store</b>	
	• Maximum Building Area	63.75 m <sup>2</sup> (7.5 m x 8.5 m)

**Mobile Home and Trailer Park (MHTP) Permitted Uses**

28. Land may be used and buildings and structures erected, altered or used in a Mobile Home and Trailer Park (MHTP) Zone only for
- a) a mobile home;
  - b) a trailer;
  - c) one accessory building buildings whose use is accessory to any of the foregoing permitted uses.

**Mobile Home and Trailer Park (MHTP) Zone Specifications**

29. Land may be used and buildings and structures may be erected, altered or used in a Mobile Home (MHTP) Zone only where the following specifications are complied with:

<b>COLUMN 1</b>		<b>COLUMN 2</b>
1	<b>Maximum lot area</b>	15 m x 38 m (570 m <sup>2</sup> )
2	<b>Lot frontage</b>	
	• Minimum	12 m
	• Maximum	15 m
3	<b>Yard depth</b>	
	• Minimum (Front)	8 m
	• Maximum (Front)	15 m
4	<b>Minimum side yard width</b>	3 m
5	<b>Accessory building</b>	
	• Maximum accessory building unit area	20 m <sup>2</sup>
	• Maximum accessory building height	4 m
6	<b>Minimum setback</b>	
	• Provincial highways, reserve road, and other roads	18 m
	• Water setback	15 m
7	<b>Minimum setback of accessory building</b>	
	• From principal building	2 m
	• From lot line	2 m



**Commercial (C) Zone Permitted Uses**

30. Land may be used and buildings and structures may be erected, altered or used in a Commercial (C) Zone only for
- a) an automobile service station, commercial garage or automobile business, including sales and rentals;
  - b) a car wash;
  - c) a bank or other financial institution;
  - d) a personal service shop;
  - e) a boat, snowmobile, trailer or cycle business, including sales and rentals;
  - f) a business or professional office;
  - g) a convenience store;
  - h) a gas bar;
  - i) a green house and nursery;
  - j) a laundry or dry-cleaning establishment;
  - k) a restaurant or other eating establishment;
  - l) a hotel;
  - m) a lounge;
  - n) a place of entertainment;
  - o) a post office;
  - p) commercial wharf;
  - q) a taxi stand;
  - r) a retail store; or
  - s) a use accessory to any of the foregoing permitted uses.

**Commercial (C) Zone Specifications**

31. Land may be used and buildings and structures may be erected, altered or used in a Commercial Zone only where the following specifications have been complied with:  
a)

<b>COLUMN 1</b>		<b>COLUMN 2</b>
<b>1</b>	<b>Lot area</b>	
	• Minimum	930 m <sup>2</sup>
	• Maximum	Area of principal building + 25% of area of principal building + parking requirements
<b>2</b>	<b>Lot frontage</b>	
	• Minimum	23 m
<b>3</b>	<b>Yard depth</b>	
	• Front(Minimum)	6 m
	• Front (Maximum)	10 m
	• Rear (Minimum)	6 m
	• Rear (Maximum)	10 m
<b>4</b>	<b>Side yard width</b>	
	• Minimum	3 m or half the height of building, whichever is greater
<b>5</b>	<b>Principal Building</b>	
	• Maximum principal building height	14 m
<b>6</b>	<b>Accessory building</b>	
	• Maximum accessory building unit area	25% of principal building area
	• Maximum accessory building height	10 m
<b>7</b>	<b>Minimum setback</b>	
	• Provincial highways, reserve road, and other roads	18 m
	• Water setback	30 m
<b>8</b>	<b>Minimum setback of accessory building</b>	
	• From principal building	2 m
	• From lot line	2 m

- b) no building permit shall be issued in a Commercial Zone for a lounge, cabaret, or beverage room which is located within 60 m of any area of land zoned as R, MHTP, PUCF, RC, and CST.

**Industrial (I) Zone Permitted Uses**

32. Land may be used and buildings and structures may be erected, altered or used in an Industrial (I) Zone only for
- a) an industry or manufacturing establishment;
  - b) a warehouse or storage establishment;
  - c) a retail outlet, wholesale outlet or business office accessory to a permitted use;
  - d) a yard for fuel, lumber, building material, contractor's equipment or similar material;
  - e) a contractor or tradesman's shop;
  - f) a farm implement sales or repair business;
  - g) a parking lot;
  - h) a junkyard or automobile wrecking yard but, where visible from a public road, only if screened from view by a fence not less than 2 m in height on all sides;
  - i) a building for the owner, or for the use of a watchman or other employee whose presence on the premises is essential;
  - j) a use accessory to any of the foregoing permitted uses.

**Industrial (I) Zone Specifications**

33. Land may be used and buildings and structures may be erected, altered or used in an Industrial (I) Zone, only where the following specifications have been complied with

a)

<b>COLUMN 1</b>		<b>COLUMN 2</b>
1	<b>Lot area</b>	
	• Minimum	930 m <sup>2</sup>
	• Maximum	Area of principal building + 25% of area of principal building + parking requirements
2	<b>Lot frontage</b>	
	• Minimum	23 m
3	<b>Yard depth</b>	
	• Front(Minimum)	6 m
	• Front (Maximum)	10 m
	• Rear (Minimum)	6 m
	• Rear (Maximum)	10 m
4	<b>Side yard width</b>	
	• Minimum	3 m or half the height of building, whichever is greater
5	<b>Principal Building</b>	
	• Maximum principal building height	14 m
6	<b>Accessory building</b>	
	• Maximum accessory building unit area	25% of principal building area
	• Maximum accessory building height	10 m
7	<b>Minimum setback</b>	
	• Provincial highways, reserve road, and other roads	18 m
	• Water setback	30 m
8	<b>Minimum setback of accessory building</b>	
	• From principal building	2 m
	• From lot line	2 m

b) no building permit shall be issued in an Industrial Zone which is located within 60 m of any area of land zoned as R, MHTP, PUCF, RC, and CST.

**Use and Community Facilities (PUCF) Zone Permitted Uses**

34. Land may be used and buildings and structures may be erected, altered or used in a Public Use and Community Facilities (PUCF) Zone only for
- a) an assembly hall;
  - b) a school;
  - c) a church;
  - d) medical clinic or hospital;
  - e) a band council office or other administrative office of the band;
  - f) a cemetery;
  - g) a waste water treatment facility
  - h) a water treatment plant;
  - i) a senior citizen apartments;
  - j) a nursing home;
  - k) a youth center;
  - l) a use accessory to any of the foregoing permitted uses.

**Public Use and Community Facilities (PUCF) Zone Specifications**

35. Land may be used and buildings and structures may be erected, altered or used in a Public Use and Community Facilities (PUCF) Zone, only where the following specifications have been complied with

<b>COLUMN 1</b>		<b>COLUMN 2</b>
1	<b>Lot area</b>	
	• Minimum	930 m <sup>2</sup>
	• Maximum	Area of principal building + 25% of area of principal building + parking requirements
2	<b>Lot frontage</b>	
	• Minimum	23 m
3	<b>Yard depth</b>	
	• Front (Minimum)	6 m
	• Front (Maximum)	10 m
	• Rear (Minimum)	6 m
	• Rear (Maximum)	10 m
4	<b>Side yard width</b>	
	• Minimum	3 m or half the height of building, whichever is greater
5	<b>Principal Building</b>	
	• Maximum principal building height	14 m
6	<b>Accessory building</b>	
	• Maximum accessory building unit area	25% of principal building area
	• Maximum accessory building height	10 m
7	<b>Minimum setback</b>	
	• Provincial highways, reserve road, and other roads	18 m
	• Water setback	30 m
8	<b>Minimum setback of accessory building</b>	
	• From principal building	2 m
	• From lot line	2 m

**Recreational RC) Zone Permitted Uses**

36. Land may be used and buildings and structures may be erected, altered or used in a Recreational(RC) Zone only for
- a) Community center;
  - b) Arena;
  - c) Park;
  - d) Playground;
  - e) Sports field;
  - f) Snowmobile/ATV trail;
  - g) Walking trail;
  - h) a use accessory to any of the foregoing permitted uses.

**Recreational (RC) Zone Specifications**

37. Land may be used and buildings and structures may be erected, altered or used in a Recreational (RC) Zone only where the following specifications are complied with:

<b>COLUMN 1</b>		<b>COLUMN 2</b>
1	<b>Lot area</b>	
	• Minimum	930 m <sup>2</sup>
	• Maximum	Area of principal building + 25% of area of principal building + parking requirements
2	<b>Lot frontage</b>	
	• Minimum	23 m
3	<b>Yard depth</b>	
	• Front (Minimum)	6 m
	• Front (Maximum)	10 m
	• Rear (Minimum)	6 m
	• Rear (Maximum)	10 m
4	<b>Side yard width</b>	
	• Minimum	3 m or half the height of building, whichever is greater
5	<b>Principal Building</b>	
	• Maximum principal building height	14 m
6	<b>Accessory building</b>	
	• Maximum accessory building unit area	25% of principal building area
	• Maximum accessory building height	10 m
7	<b>Minimum setback</b>	
	• Provincial highways, reserve road, and other roads	18 m
	• Water setback	30 m
8	<b>Minimum setback of accessory building</b>	
	• From principal building	2 m
	• From lot line	2 m



**Cultural/Spiritual/Traditional (CST) Zone Permitted Uses**

38. Land may be used and buildings and structures may be erected, altered or used in a Cultural/Spiritual/Traditional (CST) Zone only for
- a) Pow-wow, including sacred fire area;
  - b) Sweat lodge;
  - c) Medicinal plants;
  - d) Sacred burial grounds; and
  - e) a use accessory to any of the foregoing permitted uses.

**Cultural/Spiritual/Traditional (CST) Zone Specifications**

39. Land may be used and buildings and structures may be erected, altered or used in a Cultural/Spiritual/Tradition (CST) Zone only where the following specifications are complied with:
- a) Sweat Lodge lot size –30 m by 30 m including the sweat lodge.

**Watershed(WS) Zone Permitted Uses**

40. Land may be used and buildings and structures may be erected, altered or used in a Watershed (WS) Zone only for
  - a) Miawpukek Protected Watershed; and
  - b) a use accessory to any of the foregoing permitted uses.

**Conservation (CS) Zone Permitted Uses**

41. Land may be used and buildings and structures may be erected, altered or used in a **Conservation (CS) Zone** only for

a) Conservation (CS) Zone (Ecological)

- i. Wetlands;
- ii. Watercourse—riparian;
- iii. Species at risk, threatened, endangered, etc.;
- iv. Indicators of ecosystem health;
- v. Environmentally sensitive area; and
- vi. a use accessory to any of the foregoing permitted uses.

b) Conservation (CS) Zone (Historical)

- i. Archaeological sites; and
- ii. a use accessory to any of the foregoing permitted uses.

**Cabin (CB) Zone Permitted Uses**

42. Land may be used and buildings and structures may be erected, altered or used in a Cabin (CB) Zone only for
  - a) Cabins; and
  - b) Two accessory buildings, examples: boat house, wood house, generator sheds.

**Cabin (CB) Zone Specifications**

43. Land may be used and buildings and structures may be erected, altered or used in a Cabin (CB) Zone only where the following specifications are complied with:

<b>COLUMN 1</b>		<b>COLUMN 2</b>
1	<b>Maximum lot area</b>	15 m x 38 m (570 m <sup>2</sup> )
2	<b>Lot frontage</b>	
	• Minimum	12 m

	• Maximum	15 m
3	<b>Yard depth</b>	
	• Minimum (Front)	8 m
	• Maximum (Front)	15 m
4	<b>Minimum side yard width</b>	3 m
5	<b>Cabin unit</b>	
	• Maximum unit area	9 m x12 m (108 m <sup>2</sup> )
	• Maximum cabin height	8 m
6	<b>Accessory building</b>	
	• Maximum accessory building unit area	20 m <sup>2</sup>
	• Maximum accessory building height	4 m
7	<b>Minimum setback</b>	
	• Provincial highways, reserve road, and other roads	18 m
	• Water setback	15 m
8	<b>Minimum setback of accessory building</b>	
	• From principal building	2 m
	• From lot line	2 m

## **PART V - OWNER APPLICATIONS**

### **Minor Variance**

44. The owner of any land, building or structure affected by this by-law may apply to the Zoning Administrator for a minor variance from the provisions of this by-law, in respect of the land, building or structure, or use thereof. Any owner who applies must set out in the application the reasons for the variance and submit detailed site plans, where

applicable.

45. An application for minor variance can be submitted for the following residential uses:
- i. One and two unit dwellings,
  - ii. Semi-detached dwellings,
  - iii. Mobile homes, and
  - iv. Accessory buildings to such developments.

b. Items that can be reviewed as Minor Variance for residential uses include:

- i. A decrease to the required front, rear, or side yard setback regulations by 25% or less.
- ii. A decrease to the required distance of a building to any other building on the lot by 10% or less.
- iii. No variance can be requested for height.

46. A Minor Variance can be requested for uses other than residential for the following:

- i. An increase in building height (not to exceed 3 metres above the height requirements).

47. In determining whether an application for a minor variance should be granted, the Zoning Administrator shall take into consideration

- a) whether the minor variance is desirable for the appropriate development or use of the land, building or structure;
- b) whether the general intent and purpose of this by-law and the official plan, if any, will be maintained;
- c) whether the variance is based on the existence of special circumstances applicable to the property, including size, shape, topography, location or surroundings, such that the strict application of the zoning regulations deprives the property of privileges enjoyed by other properties in the vicinity under the identical zoning classification;
- d) whether the variance does not constitute a grant of special privileges inconsistent with the limitations on other properties in the vicinity and zoning district in which the property is located; and
- e) whether the variance substantially meets the intent and purpose of the zoning district in which the property is located.

**PART VI - ENFORCEMENT**

48. The Zoning Administrator may, at all reasonable hours, enter and inspect any land, building, structure or other property for the purpose of determining whether this by-law is being complied with.

**Offence**

- 49. (1) A person who uses land, or who erects or uses any building or structure or any part of land or a building or structure, in a manner contrary to any provision of this by-law, or who causes or who permits such use or erection, or who otherwise violates any provision of this by-law or causes or permits any such violation, commits an offence.
- (2) A person who interferes with or obstructs the Zoning Administrator in the administration and enforcement of this by-law commits an offence.
- (3) Where an act or omission in contravention of this by-law continues for more than one day, such an act or omission may be deemed to be a separate offence committed on each day during which it continues, and may be punished as such.

**Penalty**

50. A person who commits an offence under Section 49 is liable on summary conviction to a fine not exceeding \$1, 000.00 or to imprisonment not exceeding thirty days, or to both.

This by-law is hereby made at a duly convened meeting of the Council of the

\_\_\_\_\_ Indian Band this \_\_\_\_\_ day of \_\_\_\_\_, 2009.

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

\_\_\_\_\_  
(Member of the Council)

\_\_\_\_\_  
(Member of the Council)

\_\_\_\_\_  
(Member of the Council)

\_\_\_\_\_  
(Member of the Council)



\_\_\_\_\_  
(Member of the Council)

\_\_\_\_\_  
(Member of the Council)

being the majority of those members of the Council of the \_\_\_\_\_ Indian Band present at the aforesaid meeting of the Council.

The quorum of the Council is four (4) members.

Number of members of the Council present at the meeting:

I, \_\_\_\_\_, Chief/Councillor of the Indian 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 office, pursuant to subsection 82(1) of the Indian Act, this day of \_\_\_\_\_, 2009

\_\_\_\_\_  
(Witness)

\_\_\_\_\_  
(Chief/Councillor)