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By - law No. 1995 - 01

of the Miawpukek Band

**A By law to Regulate The Conduct And Activities of
Hawkers, Peddlers Or Others on The Reserve**

Whereas the Council of the Miawpukek Band desires to make a by law for the regulation of the conduct and activities of hawkers, peddlers or others who enter the reserve to buy, sell, or otherwise deal in wares or merchandise;

And Whereas the Council of the Miawpukek Band 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 violation thereof, pursuant to paragraphs 81 (1) (n), (q) and (r) of the Indian Act;

And Whereas it is deemed to be expedient for the welfare of the residents of the Samiajij Miawpukek Indian Reserve No.1 to licence and regulate hawkers and peddlers;

Now Therefore the Council of the Miawpukek Band hereby enacts the following by-law:

Short Title

1. This by-law may be cited as the "Miawpukek Band Hawkens and Peddlers By-law".

Interpretation:

2. In this by-law,

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

"Hawkens and peddler" includes a hawker, peddler, transient trader, itinerant sellar or other person who, enters the reserve to buy, sell or otherwise deal in wares or merchandise, or offer for sale to any person, by means of samples, patterns, cuts, blue prints or pictures, wares or merchandise to be sold at that time or to be delivered afterwards or shipped to the reserve;

"Itinerant sellar" means a sellar whose business including soliciting negotiating or arranging for the signing by a buyer, at a place other than the sellar's permanent place of business, of a contract for sale of wares or merchandise;

"License" means a licence issued pursuant to this by-law permitting the licensee to conduct business on the reserve;

"Licensee" means a person to whom a licensee is issued pursuant to this by-law;

"Licensing agent" means the person appointed by Council pursuant to section 4 to receive applications and issue licences pursuant to this by-law;

"Officer" means any police officer, police constable or other person charged with the duty to preserve and maintain 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;

"Reserve" means the reserve of the Miawpukek Band and includes the Miawpukek Band's Reserve No.1;

Requirement for Licence

3. (1) No person shall conduct business as a hawker and peddler of wares or merchandise on the reserve unless that person holds a valid and subsisting licence issued pursuant to this by-law with respect to the type of wares or merchandise that person deals in.

(2) Subsection (1) does not apply to a person who

- (a) has a permanent place of business on reserve; or
- (b) is a member of the Miawpukek Band residing on reserve.

Licensing Agent

4.(1) The Council may, by band council resolution, appoint a licensing agent who shall receive applications and issue licences for the purposes of this by-law.

(2) The Council may, in the band resolution, provide for reasonable remuneration to be paid to the licensing agent.

Duties of Licensing Agent

5. The licensing agent shall

- (a) receive and deal with all applications for licences to be issued under this by-law.
- (b) maintain a record of all applications for licences and retain on file a copy of all licences issued, together with their particulars;
- (c) ascertain, as far as reasonably practicable, that all information furnished by the applicant in connection with an application for a licence is true in substance;
- (d) as often as may be necessary, make inquiries and inspections to determine whether every holder of a licence issued pursuant to this by-law complies in every respect with the licence issued and other by-laws of the Miawpukek Band;

- (e) report in writing to the Council bi-monthly, or as otherwise requested by the Council, stating the number of licences issued, the types of wares and merchandise being sold under each licence, the duration of each licence, and the amount of money received since the previous report along with a summary stating the total number of licences issued and the total; money received to date for the current year;
- (f) perform such other duties as may be assigned from time to time

Licences

- 6.(1) A licence shall specify the types of wares or merchandise the licensee is permitted to deal in.
- (2) A licence shall be valid through the reserve.
- (3) A licence shall be in form 1.

Application for Licence

- 7. Any person who wishes to conduct business as a hawker and peddler on reserve shall make an application in writing to the licensing agent in Form 2, and shall truthfully disclose all information required to be disclosed on the application form.

Fees

- 8. The fees payable for a licence under this by-law are:
 - (a) \$100.00 dollars per calendar year;
 - (b) \$25.00 dollars per calendar month;
 - (c) \$10.00 dollars per calendar week; and
 - (d) \$5.00 dollars per day or part thereof.

Issuances of Licence

- 9. The licensing agent shall make out and deliver a licence to the applicant if:
 - (a) the applicant has disclosed all information required to be disclosed in the application form and the licensing agent is satisfied that all information disclosed by the applicant is true;
 - (b) the licensing agent is satisfied that the applicant has complied with the appropriate requirements with respect to the conduct of the applicant's business, including registration and bonding;
 - (c) the required fee for the licence has been paid.

Duration of Licence

10. Every licence issued pursuant to this by-law shall be for the calendar year current at the time of issuing thereof and shall expire on the 31st day of December following the date of issuance, unless on a monthly, weekly or daily basis.

Producing Licence Upon Request

1. Every licensee shall carry the licence while conducting business on the reserve and shall produce the licence upon request of the licence agent or a police officer.

Licence not Transferable

12. A licence issued under authority of this by-law is not transferable.

Hours

13. No person conducting business as a hawker and peddler or itinerant seller shall call at any residence on the reserve between the hours of 8:00 p.m. and 9:00 a.m., or on Sundays or holidays, unless previously invited by the occupier of the residence.

No Refund

14. No rebate or refund of any part of a licence fee shall be made to any licensee by reason of forfeiture of a licence, or non-usage of the rights and privileges thereby granted, or for any other cause.

Revocation or Suspension of Licence

15. The Council may, by band council resolution, after notice and hearing, suspend for a period not exceeding ninety days or revoke any licence issued under this by-law, where it has been shown that the licensee:
 - (a) has failed to comply with this by-law or other by-laws of the Miawpukek Band;
 - (b) has conducted his business in a manner that is detrimental to the interests of the residents and consumers on the reserve.
 - (c) has been charged with an offence on reserve whereby a resident of the reserve is a direct victim.

Penalty

16. A person who violates any provision of this by-law commits an offence and is liable on summary conviction to a fine not exceeding \$ 1,000.00 dollars or to imprisonment for a term not exceeding 30 days, or to both.

THIS BY-LAW IS HEREBY passed at a duly convened Council Meeting of the Band Council of the MIAWPUKEK Band, this 16th day of October, 1995.

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

John Fedder
Councillor

May Stide
Councillor

Steve McDonald
Councillor

[Signature]
Councillor

Maudie Joe
Councillor

[Signature]
Councillor

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

The quorum of the Band Council is 4 members.

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

I [Signature] Chief/Councillor of the 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 District/Regional/Hull office (as the case may be) pursuant to subsection 82(1) of the Indian Act, this 16th day of October, 1995.

[Signature]
Chief/Councillor

Alma Benoit
Witness

Form #1

HAWKERS AND PEDDLERS LICENCE

_____ is hereby authorized to conduct business
(Name of Licensee)

as a hawker and peddler dealing in the following wares and

merchandise _____ on the SAMIAJIJ

MLAWPUKEK Indian Reserve for the period commencing (_____)
Date

to (_____)
Date

Signature of Licensee Agent

Date

Form #2

HAWKERS AND PEDDLERS LICENCE APPLICATION FORM

- 1. Applicant's Name _____
- 2. Permanent Address _____
- 3. Phone Number-Home _____
- 4. Occupation _____
- 5. Employers Name and Address _____
- 6. Social Insurance Number _____
- 7. Period for which licence is required _____ to _____
Give exact dates
- 8. Types of wares and merchandise to be sold on the reserve

- 9. Locations where wares and merchandise are to be sold on reserve

- 10. Are you presently registered with the provincial government with respect to the conduct of your business? Yes _____ No _____ (If yes, applicant must provide proof and give details below).

- 11. Are you bonded with a bonding agency with respect of the conduct of your business? Yes _____ No _____ (If yes applicant must provide proof and give details below).

- 12. Have you, within the previous three years, been convicted of a criminal offence for which you have not been pardoned?
Yes _____ No _____ (If yes, please give details below)

