

MIAWPUKEK BAND

REGULATION OF CONSTRUCTION PROJECTS BY-LAW 8-87

I, the undersigned, LINDA A. McDONALD, Keeper of the Wampum of the Miawpukek Band, hereby certify in respect of the Miawpukek Band By-Law No. 8-87, the original copy of which is joined hereto and inserted into the Register of By-Laws of the Miawpukek Band, the following:

- 1. Such by-law was duly enacted at a meeting of the representatives of the Miawpukek Band Representatives held on the Aosamiaji'jij Miawpukek Reserve on the 23rd day of September, A.D., 1987;
- 2. The signatures appearing upon the original copy of such by-law are those of the Saqamaw and representatives present at the time the by-law was enacted and of the Keeper of the Wampum;
- 3. Such by-laws came into force on the 23rd day of September, A.D., 1987;
- 4. A copy of such by-law was forwarded to the Minister of Indian Affairs and Northern Development on the 25th day of September, A.D., 1987.

SIGNED AT THE AOSAMIAJI'JIJ MIAWPUKEK RESERVE, this 25th day of September, A.D., 1987.

Linda A. McDonald
Keeper of the Wampum

MIAWPUKEK BAND

REGULATION OF CONSTRUCTION PROJECTS BY-LAW NO. 8-87

Pursuant to the authority of the Miawpukek Band acting through its representatives at a meeting of the representatives held at the Aosamiaji'jij Reserve on the 23rd day of September, A.D., 1987, the band enacts the following by-law.

INTERPRETATION

1. (1) Unless otherwise indicated by express terms or necessary implication, the terms and expressions used in this by-law shall have the same meaning as in The Indian Act, R.S.C., 1970, c.I-6. Words importing the singular number or the masculine gender shall include the plural number or the feminine gender, as the case may be, and vice versa. References to persons shall include firms and corporations.

(2) For greater certainty, the following words and phrases shall mean:

- (a) "Local Services": Any services of a community or municipal nature relating to water, sewer, fire protection, recreation, roads, garbage removal and disposal, actually provided or made available, directly or indirectly by the Band to or in respect to persons or premises within the perimeter of the reserve.
- (b) "Officer": Means a member of the Band's Police Force;
- (c) "Agreement": Means the Band's Funding Agreement;
- (d) "Band": Means the Miawpukek Band;
- (e) "Council": Means the Saqamaw or Representatives of the Miawpukek Band;
- (f) "Director": Means the Director of Public Works so approved by the Council and includes the authorized representative of the Director;
- (g) "Structure": Includes a building and a permanent structure of any kind and also includes a mobile home.

PERMITS AND INSPECTION DEPARTMENT

2. The Director shall be responsible for the enforcement of the present by-law.

DUTIES OF THE DIRECTOR

3. (1) The Director shall deliver or revoke all certificates, permits and authorizations.

(2) The Director shall ensure that the Standards, Codes and Guidelines attached hereto as Annex "A" have been complied with. For matters not dealt with in Annex "A", the Codes and Standards and Guidelines created pursuant to applicable Provincial Legislation with respect to the standards, type and quality of construction shall apply and be enforced by the Director, except to the extent that the Band has adopted a by-law inconsistent thereto, in which case such by-law shall apply.

(3) The Director shall inspect or cause to be inspected at intervals all local services, structures or parts of structures in course of construction, alternation, repair, moving or demolition, as well as of existing structures or local services when the enforcement of by-laws requires it.

(4) The Director may require that materials, appliances or methods of construction be submitted to tests to determine their quality or character.

(5) The Director shall determine the measures to be taken to protect property and life by insuring the safety of any local service or structure or part of structure which, in his opinion, is in an unsafe or faulty condition.

(6) When the Director has reason to believe that the condition or use of a parcel of land or of a local service or structure constitutes a serious and immediate hazard for public safety, he must require without delay that appropriate steps be taken to restrict or eliminate such hazard. He may order the immediate evacuation of any person from any place where, in his opinion, such hazard exists, and prevent access thereto as long as he deems such hazard to subsist. He may, moreover, require the help of other band departments to ensure public safety.

(7) The Director shall have the authority to decide upon all questions pertaining to the dispositions of this by-law and of those of other related by-laws, in any case relating to the mode of construction, the quality and use of materials subject of final review by the council.

(8) The Director shall take all steps which he deems necessary to ensure compliance with the requirements of the by-laws and with the requirements which he shall determine, under the powers conferred to him by such by-laws, to ensure public safety as related to the conditions or use of parcels or land, local services and structures.

(9) When the Director discovers the existence of illegal local services, structures or parts of structures or works which do not meet requirements, are partly destroyed or constitute a real hazard with respect to public safety, he may notify the owner and set a time limit for the carrying out of the works required to eliminate the hazard, or have such structures or works brought up to requirements, removed or demolished. At the expiry of such time, proceedings may be taken against the owner and moreover, the Director then may prohibit the use of the building or structure as well as of the land or prevent access thereto until the owner conforms.

(10) In all cases where the Director decides to order the evacuation of a parcel of land or structure and prohibits access thereto, he may have a notice posted at the entrance to such parcel of land or structure ordering the immediate evacuation of the premises and prohibiting entrance. As long as the Director does not have such notice removed, no person may refuse to evacuate the premises or may enter it.

(11) Any police officer of the Miawpukek Band shall, after being informed by the Director or his representative and while accompanied by either of them, arrest on site any person who violates the provisions of this article.

(12) Written charges must be signed and sworn by the Director or by the latter's authorized representative who accompanied the police officer.

RIGHT OF ENTRY

4. (1) The Director shall have the right, on presentation of proper identification, to visit the premises and to enter any building or construction or local services in course of erection, alternation, repair, moving or demolition, to ascertain that no provisions or the band by-law applying thereto is infringed.

(2) The Director shall also have the right to enter any structure for purposes of inspection or when there is reason to

believe that the building is in a dangerous or faulty condition through fire, accident or other causes, or that the building is used for purposes other than for which it was designed.

PERMIT

APPLICATION FOR PERMITS

5. (1) No one shall erect any permanent or temporary structure or local service, or alter, repair, move or demolish any structure, or undertake any excavation works for the erection of any structure or local services within the reserve without a written authorization or permit issued by the Director pursuant to this by-law.

(2) The application for a permit, written on a special form provided for such purpose, shall be filed with the Director. It shall give the full name and address of the owner, the architect (if applicable), engineer and builder, as well as the number of the latter's permit, the cadastral number of any other description permitting localization of the structure or local service, together with the details of the proposed works or occupancy. It shall be signed by the owner or by his authorized representative and be accompanied by the following documents:

- (a) Two complete set of plans and specifications.
- (b) An estimate of the probable cost of the works.

PLANS AND SPECIFICATIONS

PLANS

6. (1) The plans shall be drawn to scale and shall be reproduced by some indelible process. They shall include:

- (a) a plot plan conforming with the requirements of section 8;
- (b) the plans of the foundation, of each storey and of the roof, the elevations, sections and all details necessary for the clear understanding of the project;
- (c) the plans and details of the proposed local service.

(2) All essential parts shall be drawn to a scale of at least one eighth of an inch (1/8") to the foot.

(3) The plans shall also show the location of plumbing fixtures, the water services for domestic use and fire protection, as well as any other detail that may be required by the Director.

(4) Computation of stresses and load assumptions shall be submitted by the applicant whenever required by the Director.

(5) The Director may name the requirements of the plans meeting the specifications stated herein.

PLOT PLAN FOR CONSTRUCTION PURPOSES

7. (1) The plot plan shall show the street line, the existing and proposed structures, open spaces and the layout of the immediate adjoining structures, the proposed driveways as well as the position of any drain, hydrant, pole and other obstructions on the parcel of land or in the street right-of-way which might be an obstacle in building the proposed driveway. This plan may not be required in the case of repairs not changing the outer layout of the structure concerned.

(2) This plan shall give the natural ground level of the entire parcel of land as related to the mean sea level in accordance with a twenty (20) foot grid.

SPECIFICATIONS

8. The specifications shall describe in clear and specific terms the materials and workmanship required, so that adequate information as to the extent and character of the proposed work may be known.

MENTION OF ARTICLES OF BY-LAWS

9. Any reference to this by-law in the plans and specifications shall cite specifically the article or paragraph applicable thereto.

SIGNATURE OF PLANS AND SPECIFICATIONS

10. All plans and specifications shall be signed and sealed in accordance with the applicable laws.

INCOMPLETE PLANS AND SPECIFICATIONS

11. If the information in the application for the building or local service permit or in the plans and specifications is incomplete or indefinite, the Director may suspend delivery of the authorization until sufficient information shall have been furnished.

SURVEYOR'S CERTIFICATE

12. A surveyor's certificate for the erected building and its accessory structures or local service, together with a plan, shall be supplied upon completion of the work.

APPROVAL OF PLANS AND SPECIFICATION

13. (1) Both sets of plans and specifications shall be stamped and signed by the Director or by his representative authorized to issue the permit. A set of plans and specifications shall be kept at the office of the band for purposes of control. The other set shall be returned to the applicant and kept at the site during the entire time of construction, until delivery of the certificate of occupancy and shall be available for examination by the band inspectors.

(2) Any variation of the approved plans and specifications shall be submitted to the Director for approval.

(3) Before any permit is issued, all plans and specifications must satisfy the appropriate Code in Annex "A".

PLACARD

14. (1) A placard, issued with the permit, shall be placed by the holder of the permit in a conspicuous place on the site and so that it will be visible from the street.

(2) The placard shall be protected against weather and shall be maintained in position until the works are entirely completed.

FALSE DECLARATIONS

15. Any person making a false statement in the applications for permit or in any future processes connected herewith shall be liable to the penalties provided for infringements of the present by-law.

DELIVERY OF PERMIT: DELAYS, REJECTION

16. (1) If the proposed work is found to be in conformity with the requirements of the by-laws applicable thereto, and after payment to the Band of the amount required and on condition that the applicant is not in default in the payment of user fees or other charges to the band imposed pursuant to the band by-laws, the Director shall deliver the permit within a delay of ten (10) days from the date of deposit of the application unless the importance of the project works justifies a longer delay.

(2) If an application should be rejected, the applicant should be entitled to be told the reasons for such rejection, with reference made to the articles of the by-laws which apply thereto; and the plans and specifications shall be returned to him.

PERMIT FOR TEMPORARY STRUCTURES OR LOCAL SERVICE

17. (1) No work for a temporary structure or local service shall be undertaken until a permit for same shall have been obtained.

(2) The application for the permit shall be made in accordance with the general requirements of "Plans and Specifications" and the special conditions of section 16 herein.

DEMOLITION PERMITS

18. (1) The application for demolition permit shall be filed with the office for the Department.

(2) Provided there is no objections to or prohibition of demolition known to the Director, the latter shall issue a demolition permit within a period of ten (10) days from the date the application was filed. Saturdays and holidays being excluded in the calculation of such period.

LIFE OF PERMITS LIMITED

19. A permit granted shall expire and be null if it is not used within a delay of six (6) months from the date of issuance or if works are not carried out with reasonable dispatch until total completion. The fees paid to obtain such permit shall not be refunded.

INSPECTION

SUPERVISION OF WORKS

20. (1) The Director may appoint one or more inspectors for the purposes of the implementation of this by-law.

21. The Director or the inspectors may proceed at any time to inspect the works in order to ascertain if they are in accordance with the permit granted and if the plans and specifications are being followed.

CONSTRUCTION WHICH IS INCOMPLETE OR UNOCCUPIED IN WHOLE OR IN PART

22. (1) The construction which is incomplete or unoccupied in whole or in part shall be properly secured or closed off, so as to prevent trespassing and to avoid any accident or fire hazard.

(2) Openings which are badly closed shall be protected on the outside by a sheet or plywood at least three-eighths (3/8") of an inch thick, nailed down with nails at least two (2") inches long or the equivalent thereof set at eight (8") inches at the

most from center. However, the main entrance door may be only padlocked providing the glass, if any, is protected in the same way as are the other openings.

(3) Should the owner of the building or structure or local service fail to close off such property or to keep it closed off, in accordance with the preceding provisions and with any other public safety requirements of which he has been advised by the Fire Marshall or the Director of the Department, such building or structure shall construe an nuisance and either one or the other of the aforesaid directors may take steps to eliminate such nuisance and have the required work performed by the band employees or, the Council, upon the recommendation of the Director, may award a contract to an independent contractor for the performance of such work.

PERMITS OF OCCUPANCY OR USE

GENERAL

23. No building or structure or local service which has been erected, altered, repaired, moved or use under a permit issued under this by-law shall be occupied or utilized until a permit of occupancy or use, as the case may be, has been delivered.

APPLICATION

24. When the works are completed, the owner shall send a written request to the Director.

DELIVERY OF PERMIT: DELAY

25. If the work is found to be in conformity with the requirements of the by-laws applicable thereto, and after payment to the band of the amount required, the Director shall deliver the permit of occupancy or use within the delay of ten (10) days from the deposit of the application.

CONTENTS OF PERMIT

26. The permit of occupancy or use shall specify for what purposes the building or structure or local service may be utilized.

POSTING OF PERMISSIBLE LIVE LOADS

27. In warehouses, factories, and all other buildings submitted to heavy loads, the owner shall be bound to post in conspicuous places the live loads in pounds per square foot which each floor or part of floor is allowed to carry.

ALTERNATIONS OR REPAIR OF EXISTING BUILDING OR LOCAL SERVICES

GENERAL REQUIREMENTS

28. Any alterations or repair of an existing building or structure or local service shall be made in conformity with the requirements of the present by-law.

INCREASE IN HEIGHTS

29. The number of stories of an existing building shall not be increased, unless the entire building, as well as, the new portions, are entirely in conformity with the requirements of the present by-law.

ALTERATIONS OR REPAIR PERMIT

30. The delivery of an alteration or repair permit shall be subject to the general requirement of "Plans and Specifications" through "Delivery of Permits: Delays, Rejections".

CHANGE IN OCCUPANCY OF EXISTING BUILDINGS

31. If it is proposed to change the occupancy of a building, such buildings must conform to the requirements of the present by-law for the proposed occupancy.

32. If alterations are necessary, the entire building shall be made to conform with the requirements of the present by-law.

However, if the building is adequate to carry the loads prescribed for the proposed occupancy, the Superintendent, notwithstanding the fact that the structure may not conform to all the requirements of the by-laws, may permit the change of occupancy with any other requirements of the by-laws provided that there is no increase in the fire hazard and that the new occupancy does not call for stricter requirements.

33. (1) Any change of occupancy resulting in an increase in the number of persons in any part of any floor shall be permitted only if the exits are made to conform to the requirements of the present by-law.

(2) No change in the direction in which doors used as exits open is required, however, in the case of a change from a residential occupancy to an office occupancy:

(a) on a ground floor of more than one thousand five hundred (1,500) square feet and on a second floor, provided such floors have two (2) exits and the total area of offices on each floor does not exceed one thousand eight hundred (1,800) square feet;

(b) on other floors when such area does not exceed five hundred (500) square feet.

PERMIT FOR CHANGES OF OCCUPANCY

34. (1) No change of occupancy of any building shall be effected before a new permit of occupancy shall have been delivered.

(2) The application for the permit and the delay for delivery shall be subject to the provisions of "Plans and Specifications" through to "Inspection".

(3) A copy of the permit may be given to any person having property rights in the buildings.

MOVING OF BUILDINGS

35. (1) The applicant for a permit to move a building shall be made at least forty-eight (48) hours before the date fixed to begin work.

(2) The moving permit shall be valid only for a period of two (2) months from the date of its delivery.

(3) The delivery of a permit shall be subject to the following conditions:

(a) The building to be moved, even when the moving is to be done on the same lot, shall be made to conform to the requirements of by-laws applying to new locations;

- (b) When the building is to be moved across or along a street or a public place, an application for an authorization shall previously be made to and obtained from the Director of Public Works Department and the Director of the Police Department;

The application shall indicate the rout which it is proposed to follow and the time required for the moving;

- (c) Copies of such authorization and of the conditions of which the moving may be effected shall be filed with the Director who shall, after payment to the band of the amount required, deliver the moving permit.

CONTRACTOR'S PERMIT

36. A building permit shall entitle the builder to install and maintain at the site, during the execution of the work, the derricks, hoists, offices, sheds, plant or other equipment and apparatus necessary to the execution of the works. Such equipment and works shall be removed after the work is completed within a reasonable delay to be fixed by the Director.

FENCING OF WORKING PLANTS

37. When works are carried out less than seven feet (7') from the street line, or when the Director deems it advisable, the working plants shall be fenced for the protection of the public.

WORKS CARRIED OUT WITHOUT PERMIT

38. It shall be forbidden for any person to carry out, as proprietor, contractor, subcontractor, foreman or mere workman, works of excavation, construction, repair, modification or demolition, for which a permit required by virtue of the present by-law has not been delivered to the proprietor.

39. Where work is performed without a permit, the Director shall order such work to stop immediately except for shoring work which he deems to be necessary for public safety.

40. Order to stop the work shall be posted in a conspicuous place on the site and as long as the director has not ordered the removal of said sign, it shall be prohibited for any person acting as owner, contractor, subcontractor, supervisor or worker to continue the work.

41. It shall be prohibited to temporarily store materials or to build temporary surface structures onto the public domain alongside structures or local services under construction, without having obtained permission from the Director. Such permission shall be valid for the period determined in the permit and the person who obtains such authorization shall pay the rent prescribed under the by-laws in force.

42. (1) Any member of the Band's Police Force shall, on the information of an inspector of the Department, or of any authorized representatives of the Director or the Director, arrest on sight any person violating the provisions of the present section.

(2) The written complaint shall however be signed and sworn to by the inspector or the authorized representatives of the Director who accompanied the officer.

WORKS NOT IN CONFORMITY WITH THE PLANS AND SPECIFICATION

43. (1) It is prohibited to perform as owner, contractor, subcontractor, supervisor or worker, work that does not comply with the requirements of the approved plans and specifications or of the by-laws.

(2) Where such work already had been started, the Director shall order such work to stop immediately, except shoring work which he deems necessary to continue for public safety.

44. Order to stop the work shall be posted in a conspicuous place in the part of the structure or local service affected by the work.

45. As long as the Director of the Department shall not have such poster removed, it shall be forbidden for any person, as proprietor, contractor, subcontractor, foremen or mere workman, to continue the work started.

46. (1) Any officer of the Band shall, on the information of an inspector of the Department and accompanied by the said inspector, arrest on sight any person violating the provision of the present section.

(2) The written complaint shall however be signed and sworn to by the inspector who accompanied the constable.

DEMOLITION OF UNACCEPTABLE WORKS

47. The works which the Director of the Department cannot approve in virtue of the laws and by-laws with the application of which he is entrusted and which he cannot discover in time to have them stopped in accordance with the provisions of "Work not in Conformity with the Plans and Specifications" and "Demolition of Unacceptable Works", here above shall be demolished by the proprietor.

48. The order of demolition shall be given in writing, shall be signed by the Director and shall be addressed to the proprietor by Registered Mail.

49. If the works of demolition are not commenced and proceeded with diligence within ten (10) day following the date of mailing of the order of demolition, the Director shall recommend immediately to the Council that an action for demolition be taken to have the proprietor who neglects or refuses to act, condemned.

CLOSING AND DEMOLITION OF CERTAIN BUILDINGS

50. (1) Any building partially destroyed by fire or any other cause and which has not been reconstructed within ninety (90) days following the date of destruction, any building which has become unfit for habitation or occupancy or any other work presenting some danger on account of its lack of solidity and which the proprietor neglects or refuses to repair or consolidate in conformity with the instructions given to him by the Director, or any unfinished building or work the construction of which is abandoned or interrupted for a period of more than ninety (90) days, shall be demolished by the proprietor.

(2) Meanwhile, between the time when the dangerous condition of the work or building is noted and the repairing or demolition takes place, the department concerned shall have the dangerous area surrounded by fences with torches or flashing lights or shall execute any other work deemed necessary, at the expense of the owner of the building or the person responsible for the building or work.

51. (1) In each case, the Director shall make a report to the council on the condition of the building, explaining in detail the reasons justifying demolition and address to the proprietor, by Registered Mail, a copy of such report.

(2) If the building is occupied, the report shall mention the fact that it shall indicate the names, addresses and professions of each of the occupants.

52. The order to evacuate the building and to demolish it shall come from the Council; and a copy of the resolution adopted to that end by the Council shall be addressed by Registered Mail to the proprietor and to each of the occupants.

53. (1) The occupants who shall refuse to move out within the delays fixed by the resolution of the Band Representatives, shall be liable to penalty provided by the present by-law and may be arrested on sight by any constable of the Band.

(2) As regards the movable effects found on the premises, they shall be transported elsewhere and entrusted for safekeeping with an officer of the Band's Police Force.

54. If the proprietor of the building or of the construction neglects or refuses to demolish within the delays fixed by the resolution of the Representatives, the Representatives may, at the expense of the proprietor, have the demolition effected by the employees of the band or award a contract for such purpose to an independent contractor.

55. Once the Representatives have passed a resolution ordaining the demolition of the building, the Director, shall have put up on the building a fully visible sign where mention will be made of such demolition order.

RECOVER OF COST

56. The Council shall recover from the owner the cost of demolition or of any other work carried out by the Band itself or by an independent contractor for the Band, in the cases mentioned in "Demolition of Unacceptable Works".

KEEPING OF RECORDS ON FILE

57. Copies of the permits including corrections which have been made thereto, notices, records of inspection, approved plans and specifications including amendments which may have been made thereto, complaints, correspondence and all other related records shall be kept on file in the Department.

58. Plans and Specifications may be destroyed five (5) years after the date of delivery of the permits of occupancy if the Director deems it advisable.

59. The Plans and Specifications shall be kept by the Band, and copies may be secured upon the written request by the owner of the building who shall assume copying cost.

Be it known that this by-law hereby enacted by the representatives of the Miawpukek Band at a duly convened meeting by the said representatives dated on the 23rd day of September, A.D., 1987.

Michael J.

Rembau Jeddore

W. Jeddore.

Linda A. McDonald

Mardina J.

Kenneth D.

Marilyn J.

Alma Gessert
Witness

ANNEX "A"

APPLICABLE CODES, STANDARDS AND GUIDELINES

- (1) National Building Code of Canada and Supplements;
- (2) Canadian Drinking Water Standards and Objectives, 1978, Department of National Health and Welfare;
- (3) CMHC Septic Tanks Standards;
- (4) American Water Works Association Standards;
- (5) American Society for Testing and Materials (ASTM) Standards;
- (6) Canadian Standards Association (CSA) Standards;
- (7) Canadian Electrical Code and Amendments thereto by appropriate provincial legislation;
- (8) Government of Canada Master Specifications;
- (9) Geometric Design Standards for Canadian Roads and Streets;
- (10) Department of Indian Affairs and Northern Development Standards and Guidelines;
 - (a) Effluent Quality and Waste Water Treatment Standards for Indian Reserves (DRM 10-7-68.2.1);
 - (b) Indian Reserves Roads Classification System and Geometric Design Standards (DRM 10-7-97.3.1);
 - (c) Selection of Pavement Types (DRM 10-7-97.5.4);
 - (d) Engineering Cost Analysis Manual (DRM 10-7-26);
- (11) Standards for Water Supplies DFC #405 (Dominion Fire Commissioner);
- (12) National Fire Code;
- (13) Canadian Plumbing Code or applicable Provincial By-Laws;
- (14) Fire Protection Engineering Standards of the Fire Commissioner of Canada;
- (15) Ruling Interpretations for Deviations of the Fire Commissioner of Canada;
- (16) Canadian General Standards Board;
- (17) Canadian Gas Association;
- (18) Rules for Energy Consumption in New Buildings, NRCC-16574;
- (19) Underwriters Laboratories of Canada;
- (20) American Society of Heating, Refrigerating and Air-Conditioning Engineers;
- (21) American National Standards Institute;
- (22) Architectural Wood Work Manufacturers Association of Canada;
- (23) Environment Canada Effluent Quality Guidelines;
- (24) Environment Canada Guidelines for Solid Waste Management;
- (25) C.M.H.C. Housing Codes.