

BY-LAW NO. 02 - 2011
of the Band
A BY-LAW FOR THE PRESERVATION, PROTECTION
AND MANAGEMENT OF FUR BEARING
ANIMALS AND OTHER GAME

WHEREAS the Council of the Band desires to make a by-law governing the preservation, protection and management of fur bearing animals and other game on the reserve, matters ancillary thereto, and a penalty for the violation thereof;

AND WHEREAS the Council of the Band 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 fur bearing animals and other game on the reserve;

NOW THEREFORE the Council of the Band hereby makes the following bylaw:

Short Title

1. This by-law may be cited as the "Hunting By-law on the Miawpukek Reserve".

Interpretation

2. In this by-law,

"*Band*" means the Miawpukek Band; (herein referred to as MFN)

"*big game*" includes, moose, caribou and bear;

"*Cabin*" means a dwelling; not a permanent residence;

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

"*Designated Hunter*" means a resident Miawpukek band member who has completed a hunters

training course, who is designated on behalf of an MFN Elder, or MFN disabled person to shoot and retrieve game. (Does not need to accompany the designate).

"*fur bearing animal*" includes a bear, fox, beaver, mink, otter, marten, muskrat, weasel, lynx, coyote, squirrel and snowshoe hare;

"*game*" means big game, small game and fur bearing animals;

"*hunting*" means the practice of pursuing, and /or lying in wait to kill game;

"*harassing*" means to trouble and annoy, continually or repeatedly any game in each of the following manner, such as chasing, stressing, and capturing, by way of dog, aircraft, motorized vehicle, boat, snow machine or any All-Terrain Vehicle of any type.

"*loaded*" means ammunition is in the magazine and the magazine is in the gun or there is a live shell or cartridge in the chamber of a firearm.

"*Peace officer*" means any police officer, police constable, game officer or other person charged with the duty to preserve and maintain the public peace, and a by-law enforcement officer or any other person appointment by the Council for the purpose of maintaining and enforcing this by-law.

"*reserve*" means Samia'jij Miawpukek Reserve;

"*small game*" includes ptarmigan, ruffed grouse, spruce grouse, wild ducks, wild geese, snipe, rabbits (varying hares) and includes those birds listed in the Migratory Birds Convention Act; and those listed in the Species At Risk Act

"*snare*" means the practice of taking game whereby it is caught in a noose;

"*trap*" means any spring trap, leg hold, deadfall, box or net used to capture game;

"*trapping*" means the practice of taking game by snaring, shooting or by trap.

Administration

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

peace officer.

General Prohibition on Hunting and Trapping

5. (1) No person shall engage in hunting or trapping within the reserve except as permitted by this by-law.

(2) Notwithstanding anything in this by-law, a person may, where necessary for the prevention of

a) damage to private property, livestock, or other domestic animals, or

b) injury to persons on the reserve, whether or not they are members of the band,

shall take, trap, snare, shoot or kill game and ensure the incident is reported to the Miawpukek First Nation authorities as soon as possible, and such game or carcass is surrendered to the appropriate authority.

Hunting and Trapping by Band Members

6. Subject to the provisions of this by-law, resident members of the Miawpukek First Nation may engage in hunting and trapping within the reserve.

Hunting and Trapping Permits

7. (1) A person who is a resident member of the Miawpukek First Nation may apply to the Miawpukek First Nation for a permit to hunt, snare or to trap game within the reserve.

(2) The application shall specify

a) the name & address of the applicant;

b) the applicant's age;

- c) whether the applicant has attended a hunting safety course;
- d) the location for which the permit is sought;
- e) whether they are a designate and the name of the Applicant;
- f) the species of game for which the permit is sought;
- g) the type of hunting or trapping equipment to be used;
- h) whether the applicant has any previous convictions under federal or provincial hunting regulations; and
- i) such other information as is required to enable the Council to address the considerations set out in subsection (3) and the criteria set out in subsection (4).

(3) In determining whether or not a permit should be issued, the Council shall take into consideration

- a) whether or not the applicant is a resident of the reserve;
- b) whether or not the applicant has previously held a permit and, if so, has complied with the provisions of the permit and this or any previous by-law with respect to hunting and trapping;
- c) the number of permits already issued for the species of game for which the permit is sought; and
- d) whether the designates regular permit is surrendered for that period while serving in this capacity.
- e) whether or not there is sufficient game of that species on the reserve at the time to meet the needs of Band members without detrimentally affecting the species.

(4) The Council in conjunction with section 7(2) and section 7(3) of this bylaw will issue a written permit authorizing the person to hunt or trap on the reserve, specifying therein the time, place, type of equipment, bag limit, sex of the animal and species of game that may be hunted or trapped by the person holding the permit.

(5) A permit issued pursuant to this section is non-transferable.

8. A permit issued under this by-law is invalid

- a) if it is not signed by the person to whom it is issued, or
- b) if the date of expiry has been omitted, removed or defaced; or
- c) in the case of a designate hunter, the name of the Applicant has been omitted, removed or defaced.

9. (1) A person hunting or trapping under the authority of a permit issued pursuant to section 7 shall have the permit on his/her person while hunting or trapping within the reserve.

(2) A peace officer may at any time require any permit holder who is hunting or trapping within the reserve to produce his/her permit.

10. The Council may cancel the permit of any person where it is satisfied.

- a) that the person has contravened the terms of the permit or of this by-law, or
- b) that the continuation of the permit would be detrimental to the preservation or protection of game on the reserve.

11. The holder of a permit obtained by any false or misleading statement or information made or given in respect of any information required for the issuance of the permit shall be deemed to be the holder of a void permit and the holder may be prosecuted in the same manner and with the same effect as he/she could be prosecuted if he/she were not the holder of a permit.

Hunting and Trapping by a Person Under the Age of Sixteen Years

12. (1) A resident band member who is under the age of sixteen years may only hunt and trap with a permit if accompanied by and under the supervision of a resident Band member, 18 years of age and older, holding a permit issued under section 7.

(2) A resident band member who is under the age of 16 years must comply with time restrictions, place, type of equipment, bag limit, sex of the animal, and species of game that may be hunted as part of the permit which are granted pursuant to section 7(4).

Hunting Season

13. The hunting season shall be determined annually by Miawpukek First Nation.
14. Band members shall not hunt any game except during the hunting season as prescribed by Miawpukek First Nation.

Trapping Season

15. The trapping season shall be determined annually by Miawpukek First Nation.
16. Resident Band members shall not trap any game except during the trapping season as prescribed by Miawpukek First Nation.

Prohibited Zones

17. No person shall at any time engage in hunting within the following areas of the reserve:
McDonald's Recreation Area, as identified in Lot 216, 217, 218 as per Plan number 99-019R. R.S. ATL.
18. No person shall at any time engage in trapping within the following areas of the reserve:
McDonald's Recreation Area, as identified in Lot 216, 217, 218 as per Plan number 99-019R. R.S. ATL.

Trapping Equipment

19. The equipment used by any band member for trapping game shall meet the following standards: the Agreement on International Humane Trapping Standards.

Hunting with Firearms

20. (1) It is unlawful for any person:

- a) to hunt big game (moose, caribou or black bear) with any .22 calibre rifle or any rifle using ammunition with a bullet weight of less than 100 grains or a muzzle energy less than 1,500 foot pounds. For this regulation .22 calibre includes .218, .219, .220, .222, .22/250, .223, .224 and .225 calibre rifles.
- b) to hunt big game with a rifle slug with any shotgun smaller than 20 gauge;
- c) to hunt big game with or carry in any area frequented by wildlife, full metal cased non-expanding bullets commonly known as service ammunition;
- d) to hunt small game using a shotgun that can hold more than three shells in the magazine and chamber combined, or using a shotgun loaded with a single slug; Small game may be harvested using a .22 rifle.

(2).A Coyote Shooting Licence permits hunters to use rifles having calibers including any 22. Shotguns may also be used but hunters may only use No. 2 shot or larger.

21. Notwithstanding Section 5.2 of this by-law; no person while engaged in hunting shall discharge a firearm

- a) within one thousand metres of a school and /or playground
- b) within 300 metres during any forestry operations that has been clearly marked by a sign posted in the area, or
- c) within 300 metres of a dwelling or cabin.

22. No person while engaged in hunting shall discharge a firearm

- a) on or from a public road,
- b) across a public road, or
- c) from a motorized vehicle, including all terrain, snowmobiles, aircraft or power boat.

23. No person while operating any motorized vehicle shall have a firearm in their possession, unless it is unloaded, and encased.

Hunting with Bows

24. A person who is a resident member of the Miawpukek First Nation may hunt big game with a bow with a minimum of 20 kilograms (44 pounds) draw weight.

25. It is unlawful to hunt big game unless the hunting arrows are tipped with a metal hunting head with two or more sharpened cutting edges.

26. It is unlawful to hunt small game with a long bow, recurve bow or compound bow unless it has at least 10 kilograms (22 pounds) pull at full draw;

27. It is unlawful to hunt small game with a long bow, recurve bow or compound bow unless the arrow is tipped with a blunt small game tip designed to kill by shock.

28. Notwithstanding Section 5.2 of this by-law; no person while engaged in hunting shall discharge a bow

a) within 500 metres (1640 feet) of a school and /or playground

b) within 300 metres (984 feet) during any forestry operations that has been clearly marked by a sign posted in the area, or

c) within 300 metres (984 feet) of a dwelling or cabin.

29. No person while engaged in hunting shall discharge a bow

a) on or from a public road,

b) across a public road, or

c) from a motorized vehicle, all terrain, snowmobile, aircraft or power boat.

Hunting Hours

30. It is unlawful to hunt game earlier than one-half hour before sunrise or later than one-half hour after sunset on any day.

31. No person while engaged in hunting shall have a loaded firearm in his/her possession while he/she is under the influence of alcohol or an illegal drug.

32. No person shall use any poison and /or explosive substance for hunting and trapping

purposes.

- 33.** No person shall use any device which connects a firearm to a trap or to a remote control or delayed-action mechanisms or which causes a firearm to discharge without the hunter him/her self pressing upon the trigger of such firearm.

Protected Species

- 34.** No person shall at any time engage in the hunting or trapping of the following species:
pine marten, raptor, muskrat and loon.

- 35.(1)** The Miawpukek Band may impose a temporary ban or restriction on the hunting or trapping of any species by giving notice in accordance with subsections (2) and (3).

(2) Notice of the ban or restriction shall be posted not less than 24 hours prior to the ban or restriction coming into force,

- a)** in conspicuous places in areas of the reserve in which hunting or trapping is engaged in; and
- b)** in the office of the Band Council.

(3) The notice shall specify the date and time the ban or restriction is to come into force and to cease, and the particulars of the ban or restriction imposed.

Conservation

36. A person shall not

- a)** disturb, destroy, injure, gather or take the nest or eggs of any game bird;
- b)** disturb, destroy or injure the shelter or habitat of any game.

37. (a) A person shall not willfully destroy a beaver house or beaver dam, except where the

destroying is necessary to prevent damage to the property of that person and/or the public.

(b) Pursuant to subsection 37(a), a person is required to give notice to the Miawpukek First Nation and obtain their approval prior to destroying such a house or dam.

Rules of Hunting and Trapping

38. No person shall hunt a moose, or caribou by means of a trap or snare.

39. No person shall kill or attempt to kill any species of game by the use of poison.

40. No person shall

- a) hunt game on any day later than one-half hour after sunset or earlier than one-half hour before sunrise; or
- b) hunt game by means of, or with the assistance of, a mechanical light.

41. No person shall hunt any big game by means of, or with the assistance of, a dog.

42. No person shall hunt game using a crossbow, hand-gun, fully automatic weapons and those weapons using projectiles smaller than a .22 calibre.

43. No person shall use an aircraft, motorized vehicle, boat, snow machine or any All Terrain Vehicle of any type in connection with hunting, except as a means of transportation before and after any hunting activity.

Enforcement

44. A person who

- a) fails to observe or who otherwise contravenes any provision of this by-law or any ban or restriction imposed hereunder, or

b) resists or willfully obstructs a peace officer in the performance of any duty or in the exercise of any power under this by-law, commits an offence.

45. Every person is guilty of the offence of hunting carelessly who, being in possession of a firearm for the purpose of such hunting, discharges or causes to be discharged or handles the firearm without due care and attention or without reasonable consideration for person and property.

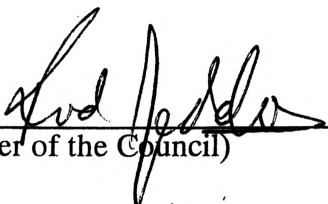
Penalty

46. A person who commits an offence under this by-law is liable on summary conviction to a maximum fine of not more than an amount not exceeding \$1,000 or to imprisonment for a term of a length of term which does not exceed 30 days, or to both a fine and imprisonment, including hunting restrictions. A court can impose the prohibition of holding a permit for up to 5 years.

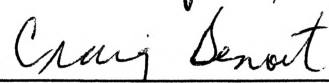
47. This by-law comes into force 40 days after the date of mailing to the Minister of Indian Affairs and Northern Development as required pursuant to section 82 of the *Indian Act*.

This by-law is hereby made at a duly convened meeting of the Council of the Band this day of, 2011.

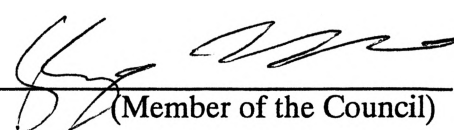
Voting in favour of the by-law are the following members of the Council:




(Member of the Council)



(Member of the Council)



(Member of the Council)



(Member of the Council)

Maudina J
(Member of the Council)

Archie Jop
(Member of the Council)

Being the majority of those members of the Council MiawPutek Band present at the
aforesaid meeting of the Council.

The quorum of the Council is 4 members.

Number of members of the Council present at the meeting: 7.

I, Mes J Chief/Council of the 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 Gatineau QC offices of the department pursuant to subsection 82(1) of the Indian Act,
this 12th day of December, 192011.

Mes J
(Chief/Council)

R. Strick
(Witness)