

## CREE NATION OF MISTISSINI

### BY-LAW NO. 255 CONCERNING THE BUSINESS PERMIT

**WHEREAS** on 11 August 1992 the Council of the Cree Nation of Mistissini adopted By-Law 61 on Licensing regulating the activities carried on by Itinerant Merchants within the community of Mistissini and the surrounding category IA lands;

**WHEREAS** on 6 April 2009 the Council of the Cree Nation of Mistissini adopted By-Law 192 concerning the establishment and operation of businesses and enterprises within the community of Mistissini and the surrounding category IA lands;

**WHEREAS** By-Law 192 was adopted to promote the economic development and regulate the conduct and operation of businesses within the community of Mistissini and the surrounding category IA lands by setting standards and procedures on the establishment and operation of businesses;

**WHEREAS** the By-Law 192 was replaced by By-Law 227 concerning the Business Permit;

WHEREAS is it is deemed necessary to amend By-Law 227 concerning the Business Permit for greater accuracy and efficiency and in accordance with the terms provided herein;

**THEREFORE**, pursuant to section 45(k) of the *Cree-Naskapi (of Quebec) Act*, S.C. 1984, c.18, the Cree Nation of Mistissini, acting through its Council at a meeting of the Council held in Mistissini, Québec, on December 18, 2017 hereby amends the By-Law 227 concerning the Business Permit.

#### Section 1. Interpretation

1.1. Unless otherwise indicated by express terms or necessary implication, the words and expressions used in the present By-Law shall have the same meaning as in the *Cree-Naskapi (of Quebec) Act*, S.C. 1984, c.18 (hereinafter referred to as the "Act").

1.2. The present By-Law shall hereinafter be known as the Business Permit By-Law.

1.3. For the purpose of the present By-Law, the following words and expressions shall mean:

"Business": A trade, a profession, a manufacture, an industry, or an undertaking of any kind whatsoever, including a non-profit enterprise or an adventure or concern in the nature of trade, but does not include an office or employment nor the activities contemplated by section 139(1) of the *Act*.

"Business Permit": A permit to operate a Business on the Territory of Mistissini which has been duly approved and issued by the Council of the Cree Nation of Mistissini pursuant to the provisions of the present By-Law.

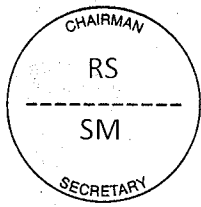
"Competent Authority": Any Person designated by the Council of the Cree Nation of Mistissini to enforce the present By-Law.

"Itinerant Merchant": Any merchant who personally or through a representative, elsewhere than at his place of business, solicits a particular consumer for the purpose of making a contract or, makes a contract with a consumer.

"Itinerant Merchant Business Permit": a Business Permit issued to an Itinerant Merchant for a shorter period than the period prescribed in the present By-Law.

"Local Business":

- a) The Cree Nation of Mistissini, its subsidiaries, the Mistissini Landholding Corporation, or any unincorporated business belonging to a local resident and whose head office is located in Mistissini, as well as any corporation, whose head office is located in Mistissini, in which one or more local residents, the Cree Nation of Mistissini, its subsidiaries, the Mistissini Landholding Corporation, or any trust, foundation or fund instituted for the benefit of any



one or more of the aforementioned, holds more than fifty per cent (50%) of the voting shares or the governing body of which is comprised by more than fifty per cent (50%) of local residents; or

- b) A joint venture, partnership or other similar arrangement between a local business as defined in paragraph a) of the present definition and a third party, provided that :
- i. the local business as defined in paragraph a) of the present definition is entitled to receive at least fifty percent (50%) of the profits of the joint venture, partnership or similar arrangement; and
  - ii. the local business as defined in paragraph a) of the present definition invests at least twenty-five per cent (25%) of the aggregate of the capital and equipment required by the joint venture, partnership or similar arrangement, including working capital; and
  - iii. local residents will carry out at least ninety per cent (90%) of the overall man-hours of the labour required under a contract obtained by the joint venture, partnership or other similar arrangement, except if not available.

"Local fundraising": The process of soliciting and gathering, within the territory of Mistissini, voluntary contributions of money or other resources for a charity, cause or other enterprise, for a maximum period of seven days per year, unless otherwise decided by the Council of the Cree Nation of Mistissini.

"Local resident": Any person who officially resides permanently on the territory of Mistissini.

"Long Term Business Permit": a Business Permit issued to a Local Business pursuant to the present By-Law and expiring on December 31<sup>st</sup> of each year;

"Person": Any natural individual, firm, trust, partnership, association or corporation in his or its own capacity or as administrator, conservator, executor, trustee, receiver or other representative appointed by the Court, or any other representative in any capacity whatsoever.

"Short Term Business Permit": a Business Permit issued for a shorter or different period than the prescribed period for a Long Term Business Permit due to special circumstances.

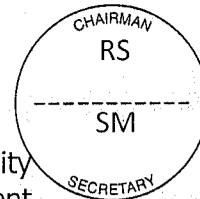
"Territory of Mistissini": the perimeter of the Category IA land of the Cree Nation of Mistissini and Category III land situated within the perimeter of Category IA land pursuant to section 6 of the *Act*.

## **Section 2. Scope**

- 2.1. The present By-Law shall apply to any Business that carries out its activities within the Territory of Mistissini to which this By-Law may apply pursuant to section 6 of the *Act*.
- 2.2. Notwithstanding previous sub-sections herein, the present By-Law shall not apply to the following professions or activities:
- a) trapper;
  - b) unskilled labourer;
  - c) domestic servant;
  - d) traditional artisan;
  - e) local fundraising.
- 2.3. Local Businesses already in existence on the Territory of Mistissini at the time of coming into force of the present By-Law shall be grandfathered and consequently, sub-sections 4.7.5. and 4.13 shall not apply to them.

## **Section 3. General Provisions**

- 3.1. Nothing in the present By-Law relieves a Person from any obligation to obtain a licence, permit or certificate under or from complying with any provision of any other law, regulation or by-law.



- 3.2. The Council of the Cree Nation of Mistissini and the Director of Community Development are designated as the Competent Authority to enforce the present By-Law.
- 3.3. The Competent Authority is entitled to visit and inspect, without any prior notice, the premises of any owner of a Business Permit pursuant to the present By-Law, during normal business hours.
- 3.4. Any Person who possesses a Business Permit shall not represent that his competence, solvency, behaviour, activities and goods, wares or merchandise are recognized and approved by the Council of the Cree Nation of Mistissini.
- 3.5. The Director of Community Development shall keep an updated registry of every Business that has a Business Permit delivered pursuant to the present By-Law.
- 3.6. The Competent Authority reserves the right to restrict the business entry into the local economy if it believes that the market can only sustain the Businesses already operating on the Territory of Mistissini.
- 3.7. Any information presented to the Competent Authority concerning the establishment of a Business shall be treated as confidential and not released without the expressed written permission of the applicant.

#### **Section 4. Business Permit**

- 4.1 For purposes of this section, a Person is deemed to be carrying on a Business if engaged in the Business directly or if employing a person, directly or indirectly, to carry on or engage in the Business.
- 4.2 Any Person who wants to operate a Business within the Territory of Mistissini shall obtain a Business Permit pursuant to the present By-Law.

To operate a Business without a valid Business Permit shall constitute an infringement of the applicable law.

- 4.3 Where more than one Business is operated at one premise, all applicable Business Permits are required, and all applicable fees must be paid in full, unless otherwise provided by this By-law.
- 4.4 Any Itinerant Merchant from outside of the Territory of Mistissini shall obtain from the Council of the Cree Nation of Mistissini a Business Permit in order to sell his products on the Territory of Mistissini.

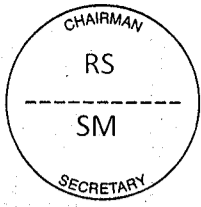
Any application from an Itinerant Merchant complying with sub-section 4.7 herein and submitted for the second time, or more, within three (3) years shall be considered as a renewal and sub-sections 4.12, 4.14 and 4.15 herein shall apply *mutatis mutandis*, except if it appears that a local business is offering same or similar goods or services.

- 4.5 A Long Term Business Permit and renewal thereof, shall be valid for a period commencing with the date provided on the Business Permit and ending on the next December 31<sup>st</sup>.
- 4.6 A Business Permit issued pursuant to the present By-Law entitles the Business Permit holder to operate a Business within the Territory of Mistissini.

The Long Term Business Permit also entitles the holder to be designated as a local enterprise from Mistissini within the context of any agreement signed between the Cree Nation of Mistissini and actors in natural resources development and, within the context of the awarding of contracts by the Cree Nation of Mistissini, except if not considered as a Local Business within the meaning of the present By-Law.

#### **Issuance**

- 4.7 Any Person who wants to obtain a permit to operate a Business for the first time shall:



- 4.7.1 complete the application form for a Business Permit, attached hereto as Schedule A, and submit it to the Director of Community Development;
  - 4.7.2 have a physical, operational and official place of business in the community of Mistissini, except under special circumstances that shall be explained in the application form for a Business Permit, attached hereto as Schedule A;
  - 4.7.3 be qualified as a Local Business as defined in sub-section 1.3 herein, except under special circumstances that shall be explained in the application form for a Business Permit, attached hereto as Schedule A;
  - 4.7.4 if an Itinerant Merchant, have a valid permit issued by the President of the Office pursuant to the *Consumer Protection Act*, RSQ, c P-40.1 (hereinafter referred to as *Consumer Protection Act*);
  - 4.7.5 pay the prescribed fees pursuant to sub-sections 4.16, 4.18, 4.19 or 4.20 herein.
- 4.8 Following the receipt of the application form duly completed, the Director of Community Department shall produce a recommendation to the Council of the Cree Nation of Mistissini regarding the type of Business Permit to be issued or the denial of the Business Permit.
- 4.9 Upon reception of a recommendation by the Director of Community Development, the final decision concerning the issuance of the Business Permit shall be guided by the economic, social and cultural environment that prevails in the community of Mistissini at the time of the application and, shall be taken by the Council of the Cree Nation of Mistissini.
- 4.10 The Council of the Cree Nation of Mistissini shall ensure that any Local Business, as defined in sub-section 1.3 b) herein, that is constituted of one or more non local residents shall comply with the following requirements:
- 4.10.1 ensure that any local resident party is active in decision-making and day-to-day management;
  - 4.10.2 demonstrate financing arrangements and how costs and/or profits are shared, including providing year-end audits;
  - 4.10.3 in case of lack of experience or certification from a local resident party, demonstrate its plan to actively involve him in the business at all levels, including providing training and apprenticeship programs;
  - 4.10.4 provide details on local employment targets and results expected;
  - 4.10.5 allow the Competent Authority to undertake a background check on the business and its officers at the expense of the business, which would include credit-checks, verifications of past partnerships, etc.

#### **Priority**

- 4.11 Priority shall be given to the business with the highest percentage of Cree ownership when it is deemed necessary by the Competent Authority to restrict the issuance of business permits.

#### **Renewal**

- 4.12 Pursuant to sub-section 4.13, the renewal of a Long Term Business Permit shall be automatic on every December 31<sup>st</sup>, unless:
- a. three formal, valid and justified complaints have been filled against the Business by local residents;
  - b. a violation by the Business of the applicable laws and regulations related to the environmental protection has been recorded;
  - c. the Business is subjected to a revocation of its Business Permit according to section 9 herein.
- 4.13 Any holder of a Long Term Business Permit who wants to benefit from the automatic renewal as provided in sub-section 4.12 herein shall, before December 31<sup>st</sup>:
- 4.13.1 complete the Renewal application form, attached hereto as Schedule A and submit it to the Director of Community Development;
  - 4.13.2 provide a copy of his Business Permit issued by the Council of the Cree Nation of Mistissini pursuant to sub-section 4.7 herein;
  - 4.13.3 have a physical, operational and official place of business in the community of Mistissini;
  - 4.13.4 qualify as a Local Business;



- 4.13.5 pay the prescribed fees.
- 4.14 Upon receipt of the duly completed application form, the Director of Community Development shall renew the Business Permit of the applicant.
- 4.15 If the renewal of a Business Permit shall be denied pursuant to sub-section 4.12 herein, the Director of Community Development shall submit the renewal application form of said Business Permit to the Council of the Cree Nation of Mistissini, with his recommendation therefor.

#### **Fees of Permit**

##### *Long Term Business Permit*

- 4.16 The fee of the issuance of the permit is \$500.
- 4.17 The renewal fee of the permit is \$250 per annum for each of the following year.

##### *Short Term Business Permit*

- 4.18 The fee of the issuance of the permit is \$500.

##### *Itinerant Merchant Business Permit*

- 4.19 If in most cases for the term of the permit requested the consideration for the Itinerant Merchant's contracts is below \$100.00, the fee of the issuance of the permit is \$100 per day.
- 4.20 If in most cases for the term of the permit requested the consideration for the Itinerant Merchant's contracts is of \$100.00 and above, the fee of the issuance of the permit is \$500 per day.

#### **Modification**

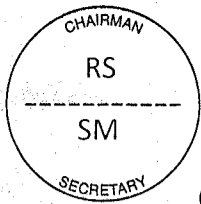
- 4.21 Any holder of a Business Permit shall notify the Competent Authority within ten (10) days of any change in the information provided in the Business Permit application form, attached hereto as Schedule A, by completing the Business Permit Information Changes application form, attached hereto as Schedule B, and submitting it to the Director of Community Development.
- 4.22 Following a recommendation of the Director of Community Development to the Council of the Cree Nation of Mistissini, material modifications to a Business Permit shall provoke a review of the issuance of the Business Permit or, shall be considered as an application for a new Business Permit, as the case may be.

#### **Section 5. Exhibition of Permit**

- 5.1 Any Person to whom a Business Permit has been issued under the present By-Law shall affix his permit in a place where the public may have a clear view of it or, if impossible, produce it when required by the Competent Authority.

#### **Section 6. Protection of Local Consumers**

- 6.1 The contract made between an Itinerant Merchant and a consumer may be cancelled at the discretion of the consumer within thirty (30) days following the day on which each of the parties is in possession of a duplicate of the contract.
- 6.2 The time limit is extended to one (1) year from the date on which the contract is made in any of the following cases:
- a. the Itinerant Merchant does not hold the permit issued by the president of the Office pursuant to the *Consumer Protection Act*;
  - b. the Itinerant Merchant fails to deliver the goods or perform the service within thirty (30) days from the delivery or performance date specified in the contract or a later date agreed to by the consumer, unless the consumer accepts delivery or performance after that time has expired.
- 6.3 The consumer avails himself of his right of cancellation:
- a. by returning the goods to the Itinerant Merchant or his representative;
  - b. by returning the contract to the Itinerant Merchant or his representative;
  - c. by sending a notice in writing for that purpose to the Itinerant Merchant or his representative.



- 6.4 The contract is cancelled of right from the return of the goods or the sending of the contract or the notice.

A contract of credit made by the consumer, even with another merchant, under or in relation to a contract made with an Itinerant Merchant, forms part of the whole contract and is also cancelled of right if it was made as a result of an offer or representation made by, or any other action of, the Itinerant Merchant.

- 6.5 Within fifteen (15) days following the cancellation, the parties shall restore what they have received from one another.

If the Itinerant Merchant is unable to restate to the consumer the goods received in payment, as a trade-in or on account, the Itinerant Merchant shall remit to the consumer the value of the goods or the price of the goods as indicated in the contract, whichever is greater.

The Itinerant Merchant shall assume the costs of restitution.

- 6.6 The consumer shall not cancel the contract if, as a result of an act of a fault for which he is liable, he is unable to restore the goods to the Itinerant Merchant in the condition in which he received them.

### **Section 7. Itinerant Merchant Activities**

- 7.1 Itinerant Merchants are entitled to carry on their trades between 9:00 a.m. to 5:00 p.m. and 7:00 p.m. to 9:00 p.m., from Monday to Friday, and between 9:00 a.m. to 5:00 p.m. on Saturday.

The sale or lease of any goods, wares or merchandise from a vehicle or trailer is prohibited, as well as from a vacant lot, be it private or public, unless otherwise specified by the Competent Authority.

### **Section 8. Funding from the Cree Nation of Mistissini**

- 8.1 To be eligible for funding from the Cree Nation of Mistissini, a Business shall have applied for or possess a Business Permit pursuant to the present By-Law.

### **Section 9. Revocation of the Business Permit**

- 9.1 The Council of the Cree Nation of Mistissini shall issue a letter of revocation of a Business Permit where:

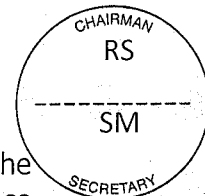
- a. a Person does not respect the obligations incumbent on him according to the present By-Law;
- b. the activities carried out under the Business Permit are found to be in violation of any applicable by-law, regulation or law;
- c. the information that was provided on the application form of the Business Permit was inaccurate or is no longer valid;
- d. the activities carried out under the Business Permit pose a threat to public safety;
- e. upon review and adoption of a resolution by the Council of the Cree Nation of Mistissini, the activities carried out under the Business Permit pose a serious threat to the integrity of the community of Mistissini.

- 9.2 If the revocation concerns an act provided in sub-sections 9.1 a), b) or c) herein, the Business Permit shall be reinstated following perfect compliance with the present By-Law and the payment of a fine according to section 11 herein.

### **Section 10. Review**

- 10.1 Any Person whose Business Permit has been denied or revoked by the Council of the Cree Nation of Mistissini can apply for a review of the decision to the Council of the Cree Nation of Mistissini at its next scheduled regular meeting.

- 10.2 All such applications shall be made in writing to the Corporate Secretary of the Council of the Cree Nation of Mistissini within ten (10) days from the date the applicant becomes aware of the contested decision.



- 10.3 Upon receipt of the application according to sub-section 10.2 herein, the Corporate Secretary shall notify the applicant of the date, the time and the place where the meeting shall be held, within a forty-eight (48) hours delay before the said meeting.
- 10.4 According to sub-section 10.3 herein, the applicant shall present to the Council of the Cree Nation of Mistissini his application for review and the reason(s) on which the review should be based by providing any relevant document or information supporting the issuance of his Business Permit.
- 10.5 The decision of the Council of the Cree Nation of Mistissini pursuant to sub-section 10.1 herein shall be deemed final and without appeal.
- 10.6 The final decision pursuant to sub-section 10.5 herein shall be rendered within forty-five (45) business days following the presentation of the application for review.

The decision must be written, reasoned and notified to the applicant.

- 10.7 The Council of the Cree Nation of Mistissini may exceed the forty-five (45) business days delay of sub-section 10.6 herein for a special reason but shall give the applicant a notice justifying such extension.

### **Section 11. Offenses**


- 11.1 Sub-sections 11.2 and 11.3 herein are enforceable by the Competent Authority and the Police Officers.
- 11.2 Any Person who contravenes a provision of the present By-Law is guilty of an offense and is liable upon summary conviction to a fine:
- a. for a first offense, of one thousand dollars (\$1000.00) per day, per infraction;
  - b. in the event of a repeat offense, of one thousand five hundred dollars (\$1500.00) per day, per infraction.
- 11.3 Any Person who contravenes a provision of the present By-Law is also liable to a cessation of his activities until perfect compliance with the present By-Law and, if an Itinerant Merchant to an expulsion from the Territory of Mistissini.

### **Section 12. Final Provisions**

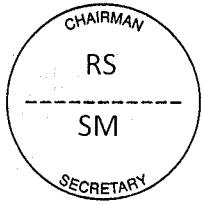
- 12.1 The present By-Law comes into force upon approval by the Council of the Cree Nation of Mistissini and in accordance with the relevant sections of the *Act*.
- 12.2 Notwithstanding sub-section 12.1 herein and unless specified otherwise in the present By-law, any Business in existence at the time of coming into force of the present By-Law shall comply with all provisions aforementioned within sixty (60) days of the enactment of the present By-Law, or shall provide the Competent Authority with a one-year plan identifying the steps it will undertake to be qualified as a Local Business, within the same delay.

The present By-Law amends the By-Law 227 concerning the Business Permit.

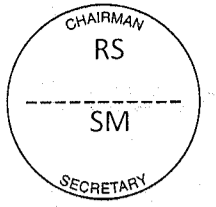
**IN WITNESS WHEREOF**, we have signed this original copy of the present By-Law at Mistissini, Quebec, on the 15<sup>th</sup> day of January 15, 2018 and posted it on the 15<sup>th</sup> day of January 2018.

  
Chairperson

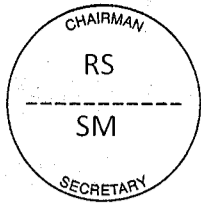
  
Secretary



**Schedule A :  
Business Permit Application Form  
And  
Renewal Application Form**



**Schedule B : Business Permit Information Changes Application Form**



BUSINESS PERMIT INFORMATION CHANGES

DATE: \_\_\_\_\_

NAME OF BUSINESS:  
\_\_\_\_\_

HOLDER OF THE PERMIT:  
\_\_\_\_\_

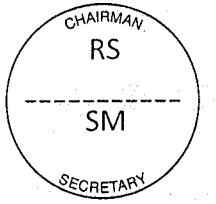
NUMBER OF THE PERMIT:  
\_\_\_\_\_

EXPIRY DATE:  
\_\_\_\_\_

I require the following information to be changed on my Business Permit:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

HOLDER OF THE PERMIT SIGNATURE:  
\_\_\_\_\_



**Schedule C : Business Permit**