

BY-LAW
NUMBER #2008-02
OF WABASEEMOONG
INDEPENDENT
FIRST NATION BAND

A BY-LAW RESPECTING A CURFEW FOR YOUTH

ENACTED:
ON THE 31st DAY OF MARCH, 2008

By-Law 2008-02 – Respecting a Curfew for Youth

WHEREAS The Band Council of Wabaseemoong Independent Nations has the authority to make by-laws under the Indian Acts R.S., c. 1-6, s.1. 81 s. (1) (c), (d), (q) and (r) for the observance of law and order, the prevention of disorderly conduct, matters ancillary thereto, and a penalty for the violation thereof;

WHEREAS the Band Council of Wabaseemoong is of the opinion that children and adolescents should not remain unattended and without adult supervision in public places during the evenings, for the maintenance of law and order and for the welfare and safety of the youth and the Reserve Community;

THEREFORE the Band Council of Wabaseemoong Independent Nations hereby enacts this by-law as follows:

Purpose

1. The purpose of this by-law is to provide for the regulation of the activities of children and adolescents at the Wabaseemoong Independent Nation Community, 16 years of age or under in order to prevent misconduct and mischief.

Short Title

2. This By-Law may be cited as “The Curfew By-Law”.

Interpretation

3. In this by-law

“**adolescent**” means any person who is 12 to 16 years of age;

“**adult**” means a person who has attained the age of 18 or a “parent”;

“**child**” means any person who is younger than 12 years of age;

“**community**” means the entire boundary of the reserve and includes the Wabaseemong Reserves which includes Wabaseemong 06268, One Man Lake 29 – 06269 and Swan Lake 29 – 06270;

“**Disturbing the Peace**” means in contravention of community rules regarding appropriate conduct;

“**entertainment**” means school and community sponsored or organized events and functions;

“**guardian**” means an adult with legal responsibility for the child or adolescent and includes foster parents or caregivers;

“**non-school night**” means a night which immediately precedes a day that is not a scheduled school day

By-Law 2008-02 – Respecting a Curfew for Youth

“parent” means both biological and legal parents;

“prohibited hours” means, on a “school night” the hours between 10:00 p.m. and 6:00 a.m. and on a “non-school night” the hours between 11:00 p.m. and 6:00 a.m.

“public place” means the property located outside of a 10 meter radius from the own residence of an adolescent or child considered to be in contravention of this by law.

“school night” means a night which immediately precedes a scheduled school day

Prohibitions

4. No adolescent or child shall be in a public place anywhere within the community during the prohibited hours unless accompanied by a parent or guardian
5. An individual failing to comply with the terms of this By-law will be deemed to be “disturbing the peace” and Police Officers may take appropriate action.

Exceptions

6. The Band Council may authorize, by resolution or declaration, exceptions to the prohibition.
7. Children or adolescents participating, with the prior knowledge and approval of their parents or guardians, in entertainment that is supervised by an adult are not committing an offence under this by-law.

Powers of the Peace Officer

- 8 (1) A peace officer who finds a child who is, or in the absence of evidence to the contrary, appears to be under the age of 13, in a public place during the prohibited hours contrary to section 4, shall give the child a warning and arrange to have such person escorted to their own residence or a place of safety.

(2) A peace officer who finds an adolescent who is, or in the absence of evidence to the contrary, appears to be over the age of 12 and less than the age of 17 in a public place during the prohibited hours contrary to section 4, may give the adolescent a warning and have such person escorted to their own residence or a place of safety.

(3) A copy of any warning issued under subsection 8(1) or 8(2) shall be delivered to the child or adolescent’s parent or guardian.

Meeting with Parents

9. (1) If a child or adolescent disregards the peace officer’s warning or is found by a peace officer to be disobeying this by-law a second time within a period of thirty (30) days, the child or adolescent and the parent(s) of such child or adolescent may be directed, by resolution of the Council, to meet and discuss such by-law infraction

By-Law 2008-02 – Respecting a Curfew for Youth

with the Council or anyone appointed by the Council through a Band Council Resolution for that Purpose.

(2) A copy of the resolution of Council referred to in subsection 5(1) shall be delivered by hand to the child's or adolescent's parent(s) not less than seven (7) full days prior to the proposed meeting.

Offence

10. (1) After meeting with the Band Council or any other person appointed by the Band Council, a parent who permits a child under the age of 12 to be in any public place during the prohibited hours, contrary to section 3, commits an offence.

(2) After meeting with the Band Council or any other person appointed by the Band Council, an adolescent who is found to be in any public place during the prohibited hours, contrary to section 3, commits an offence.

Penalty

11. Every person who contravenes any of the provisions of this by-law is guilty of an offence and is liable on summary conviction to a fine of not more than \$300 or to imprisonment for a term not exceeding 30 days, or to both a fine and imprisonment.

Alternative Justice Program

12. In the event that the community has constituted a functioning Elders Council or Alternative Justice Program any person who is prepared to plead guilty to an offence under this by-law may chose to appear before a Council of Elders or Tribunal established as part of an Alternative Justice Program within 30 days of being charged under this by-law.

13. By voluntarily electing to appear before an Elders Council or Alternative Justice Tribunal any person who is guilty of an offence under this by-law agrees to expose themselves to the penalties described in subsection 14.

14. The Elders Council or Tribunal established as part of an Alternative Justice Program will consider and impose an appropriate sentence which may include, but are limited to;

a) requiring the accused person to apologize to individuals or the broader community for any wrong doing in person or in writing;

(b) requiring the accused person to consult, over the course of a reasonable time frame, with a professional counselor;

(c) requiring the accused person to do community service work; or

(d) any other sentence that may be appropriate under the circumstances, including the penalties outlined in subsection 11.

By-Law 2008-02 – Respecting a Curfew for Youth

15. No court shall impose a sentence under this by-law if an accused person has agreed to plead guilty and elected to appear before a functioning Elders Council or Alternative Justice Program and completed the full terms of any sentence imposed.
16. A person who has failed to adhere to the conditions of a sentence imposed under subsection 14 commits an offence under this by law and is subject to the penalties described in subsection 11 without an option to elect the alternative justice provisions 12-15 inclusive.

Enforcement

17. This By-Law will be enforced by the following , Band Constables, Peace Officers, Ontario Provincial Police, Treaty Three Police, the Canadian Royal Mounted Police and Wabaseemong By-law Enforcement Officers.
18. Should a Court of competent jurisdiction strike down a section of this By-Law, the remaining portions of the By-Law shall continue to stand.
19. On the first business day following September 1st of each year, the Band Council shall request in writing, disbursement of any fines collected pursuant to this by-law to the community to support Alternative Justice Programs.
20. This by-law comes into force 40 days after a copy has been forwarded to the Minister, unless the minister declares the by-law to be in force at an earlier date.

THIS BY-LAW IS HEREBY made at a duly convened meeting of the band council of Wabaseemoong Independent Nations this 31st day of March, 2008.

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

Chief



Councillor

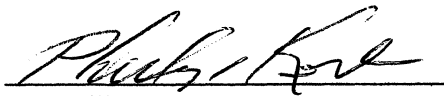


Councillor



Councillor

Councillor



Councillor

Councillor



Councillor

Councillor