

BY-LAW NUMBER #2008-01

BY-LAW
NUMBER #2008-01
OF WABASEMOONG
INDEPENDENT
FIRST NATION BAND

**“A BY-LAW TO PROHIBIT INHALENTS IN THE
COMMUNITY”**

ENACTED:
ON THE 31ST DAY OF MARCH, 2008

By-Law 2008-01 – Prohibit Inhalants in the Community

WHEREAS the Community of Wabaseemoong is experiencing detrimental effects from the abuse of Inhalants by some of its members; and

WHEREAS intoxicating substance abuse is destructive and unhealthy to the members and residents of Wabaseemoong Independent Nations; and

WHEREAS the Council of Wabaseemoong considers it necessary to adopt special measures to address the harm caused by the unauthorized presence, improper use and unregulated sale of Inhalants on the reserve; and

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) to provide a safe and healthy community, and to prevent misconduct and nuisances, the observance of law and order, with respect to any matter arising out of or ancillary to exercise the powers under section 81, and the imposition, on summary conviction, of a fine or imprisonment for violation thereof; and

WHEREAS The form and substance of this By-law set out below were assented to by a majority of electors of Wabaseemoong First Nation who voted in a special meeting of the Band on the 31 day of March, 2008 called by the Council of Wabaseemoong First Nation for the purpose of considering the said By-law; and

WHEREAS the Band Council of Wabaseemoong Independent Nations has experienced problems with enforcement and prosecution of previous by-laws.

THEREFORE the Band Council of Wabaseemoong Independent Nations hereby repeals the following by-laws:

<u>Description</u>	<u>By-Law Number</u>	<u>Enacted Date</u>
By-Law Respecting the Prohibition against the Inhalation of Solvent and Gasoline Vapours	2002-01	2002/06/06
By-Law Respecting the Control of Toxic Substances	2004-1A	2004/04/29

FINALLY be it resolved that the Band Council of Wabaseemoong Independent Nations hereby enacts this by-law to be known as By-Law # 2008-01 Prohibiting Inhalants.

Purpose

1. The purpose of this *By-law to Prohibit Inhalants in the Community* is to declare in effect a prohibition against the sale, barter, supply, manufacture, possession and consumption of Inhalants in order to protect the community and the community Members against the injurious effects of intoxicating substance abuse.

Short Title

2. This by-law may be cited as the Wabaseemong Inhalant By-law 2008-01.

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Interpretation

3. In this By-Law

"intoxicating substance" means

- (a) glues, adhesives, cements, cleaning solvents, thinning agents and dyes containing toluene or acetone and the vapours thereof,
- (b) petroleum distillates or products containing petroleum distillates including naphtha, mineral spirits, Stoddard solvent, kerosene, gasoline, mineral seal oil and other related distillates of petroleum and the vapours thereof ,
- (c) fingernail or other polish removers containing acetone, aliphatic acetates or methyl ethyl ketone, and the vapours thereof;
- (d) any substance that is required, under the Hazardous Products Act (Canada) or the regulations to that Act, to bear the label "Vapour Harmful", "Vapour Very Harmful" or "Vapour Extremely Harmful",
- (e) aerosol disinfectants and other aerosol products containing ethyl alcohol, and
- (f) any other product or substance that, when inhaled, produces an intoxicating affect.

"Traffic" means give, sell, barter, supply, manufacture or attempts to sell, barter, supply or manufacture an intoxicating substance.

Prohibition on Possession

4. No Person shall have an intoxicating substance in their possession.

Offence and penalty (Possession)

5. Any person who is in possession of an intoxicating substance is guilty of an offence and is liable on summary conviction to a fine not exceeding one hundred dollars (\$100.00) or imprisonment for a term not exceeding 30 days or both.

Prohibition on consumption

6. No person shall inhale, ingest or otherwise consume an intoxicating substance.

Offence and penalty (Consumption)

7. Any person who contravenes subsection section 6 is liable, on summary conviction, to a fine not exceeding one hundred dollars (\$100.00) or imprisonment for a term not exceeding 60 days or both.

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Prohibition on Possession for the Purpose of Trafficking

8. No person shall possess an intoxicating substance in quantities or in the totality of the circumstances that establish, by inference, that it is for the purpose of trafficking.

Prohibition on Trafficking

9. No person shall traffic in an intoxicating substance where they know that the person will use the intoxicating substance, or cause or permit the intoxicating substance to be used, as an intoxicant; or knows that that the person will use the intoxicating substance, or cause or permit the intoxicating substance to be used, as an intoxicant and is reckless with or willfully blind to that knowledge.

Exception

10. The Provisions of this by-law do not apply where the intoxicating substance is used or intended to be used appropriately,
 - (a) in cases of sickness or accident
 - (b) for domestic or commercial purposes that do not involve human consumption.
 - (c) when the intoxicating substance is being used as prescribed by a licensed health practitioner.

Offence and penalty (Possession for the Purpose of Trafficking and Sales)

11. Any person who contravenes subsection 8 or subsection 9 is guilty of an offence and is liable on summary conviction to a fine of not more than \$1,000.00 or imprisonment for a term of not more than 30 days, or both.

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 and in writing;

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- (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.
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.
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 may be enforced by the following , Band Constables, Ontario Provincial Police, Treaty Three Police and the Canadian Royal Mounted Police.
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.

Application

21. This By-law applies to the Wabaseemong Reserves which includes Wabaseemong 06268, One Man Lake 29 – 06269 and Swan Lake 29 – 06270.

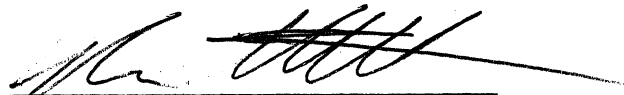
THIS BY-LAW IS HEREBY made at a duly convened meeting of the band council of Wabaseemoong Independent Nations this 31st day of March, 2008.

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

Chief



Councillor



Councillor

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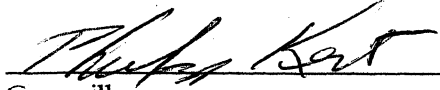
Councillor

Councillor

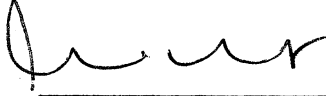


Councillor

Councillor



Councillor



Councillor

Being the majority of those members of the Band Council of Wabaseemoong Independent Nations present at the aforesaid meeting of the Band Council.

The quorum of the council is ____ Members.

Number of members of the Band Council present at the meeting ____.

I, _____ Chief of the Wabaseemoong Independent Nations 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 Ottawa office of the department pursuant to subsection 82(1) of the Indian Act, this 1st day of April, 2008.

Chief

Witness

Witness