

**WASAUKSING FIRST NATION**

**FINANCIAL ADMINISTRATION LAW,**

**2018**

## TABLE OF CONTENTS

<b>PART I - Citation .....</b>	<b>1</b>
<b>PART II - Interpretation and Application.....</b>	<b>1</b>
<b>PART III - Administration .....</b>	<b>6</b>
<i>DIVISION 1 - Council .....</i>	<i>6</i>
<i>DIVISION 2 - Finance and Audit Committee .....</i>	<i>8</i>
<i>DIVISION 3 - Directors and Employees .....</i>	<i>12</i>
<i>DIVISION 4 - Conduct Expectations .....</i>	<i>16</i>
<b>PART IV - Financial Management .....</b>	<b>17</b>
<i>DIVISION 1 - Financial Plans and Annual Budgets.....</i>	<i>17</i>
<i>DIVISION 2 - Financial Institution Accounts .....</i>	<i>20</i>
<i>DIVISION 3 - Expenditures and Cash Management.....</i>	<i>21</i>
<i>DIVISION 4 - Borrowing .....</i>	<i>23</i>
<i>DIVISION 5 - Risk Management.....</i>	<i>25</i>
<i>DIVISION 6 - Financial Reporting.....</i>	<i>28</i>
<i>DIVISION 7 - Information and Information Technology .....</i>	<i>34</i>
<b>PART V - Capital Projects .....</b>	<b>35</b>
<b>PART VI - Miscellaneous .....</b>	<b>39</b>

WHEREAS:

A. Pursuant to section 9 of the *First Nations Fiscal Management Act*, the Council of a first nation may make laws respecting the financial administration of the first nation; and

B. The Council of the Wasauksing First Nation considers it to be in the best interests of Wasauksing to make a law for such purposes;

NOW THEREFORE the Council of the Wasauksing First Nation enacts as follows:

**PART I - Citation**

**Citation**

1. This Law may be cited as the *Wasauksing FAL, 2018*.

**PART II - Interpretation and Application**

**Definitions**

2. (1) Unless the context indicates the contrary, in this Law:

"Act" means the *First Nations Fiscal Management Act*;

"annual budget" means the annual budget of Wasauksing that has been approved by the Council in accordance with section 25;

"annual financial statements" means the annual financial statements of Wasauksing referred to in Division 7 of Part IV;

"appropriation" means an allocation of money under a budget to the purposes for which it may be used;

"auditor" means the auditor of Wasauksing appointed under section 67;

"borrowing member" means a first nation that has been accepted as a borrowing member under subsection 76(2) of the Act and has not ceased to be a borrowing member under section 77 of the Act;

"capital project" means the construction, rehabilitation or replacement of Wasauksing's tangible capital assets and any other major capital projects in which Wasauksing or its related bodies are investors;

"Chair" means the chair of the FAC appointed under section 12;

"Chief" means the Chief of Wasauksing, who is a member of the Council;

"chief executive director" means the person appointed chief executive director under section 17;

"citizen" means a member of Wasauksing;

*Wasauksing First Nation FAL, 2018*

“COIP” means the Wasauksing First Nation Conflict of Interest Policy;

“Council” means the Council of Wasauksing;

“Councillor” means a member of the Council of Wasauksing and includes the Chief;

“director” means the chief executive director, director of finance, and any other employee of Wasauksing designated by the Council as a director;

“director of finance” means the person appointed director of finance under section 18;

“director of public works” means the person appointed director of public works by the Council;

“entity” means a corporation or a partnership, a joint venture or any other unincorporated association or organization, the financial transactions of which are consolidated in the annual financial statements of Wasauksing in accordance with GAAP;

“FAC” means the Finance and Audit Committee established under section 11;

“FMB” means the First Nations Financial Management Board established under the Act;

“FMB standards” means the standards established from time to time by the FMB under the Act;

“FNFA” means the First Nations Finance Authority established under the Act;

“FNTC” means the First Nations Tax Commission established under the Act;

“FNTC standards” means the standards established from time to time by the FNTC under the Act;

“financial administration” means the management, supervision, control and direction of all matters relating to the financial affairs of Wasauksing;

“financial competency” means the ability to read and understand financial statements that present accounting issues reasonably expected to be raised by Wasauksing’s financial statements;

“financial institution” means the FNFA, a bank, credit union or trust company;

“financial records” means all records respecting the financial administration of Wasauksing, including the minutes of meetings of the Council and the FAC;

“fiscal year” means the fiscal year of Wasauksing set out in section 23;

“GAAP” means generally accepted accounting principles of the Chartered Professional Accountants of Canada, as revised or replaced from time to time;

“guarantee” means a promise or agreement by a person to be liable for the debt or obligation of another person who is primarily responsible for the debt or obligation;

“indemnify” means pay amounts required or incurred

(a) to defend an action or prosecution brought against a person in connection with the exercise or intended exercise of the person's powers or the performance or intended performance of the person's duties or functions, or

(b) to satisfy a judgment, award or penalty imposed in an action or prosecution referred to in paragraph (a);

"Land Code" means the *Wasauksing First Nation Land Code*, adopted by Wasauksing under the *First Nations Land Management Act*;

"life-cycle management program" means the program of inspection, review and planning for management of Wasauksing's tangible capital assets as described in section 82;

"local revenue account" means an account with a financial institution into which local revenues are deposited separately from other moneys of Wasauksing;

"local revenue law" means a local revenue law made by Wasauksing under the Act;

"local revenues" means money raised under a local revenue law;

"multi-year financial plan" means the plan referred to in section 24;

"natural resources" means any material on or under Wasauksing's lands in their natural state which, when extracted, has economic value;

"other revenues" means other revenues as defined in section 3 of the *Financing Secured by Other Revenues Regulations* made under the Act;

"record" means anything on which information is recorded or stored by any means whether graphic, electronic, mechanical or otherwise;

"rehabilitation" includes alteration, extension and renovation but does not include routine maintenance;

"related body" means

(a) any agency of Wasauksing,

(b) any corporation in which Wasauksing has a material or controlling interest,

(c) any partnership in which Wasauksing or another related body of Wasauksing is a partner with a material or controlling interest, or

(d) a trust of Wasauksing;

"remuneration" means any salaries, wages, commissions, bonuses, fees, honoraria and dividends and any other monetary and non-monetary benefits;

“replacement” includes substitution, in whole or in part, with another of Wasauksing’s tangible capital assets;

“reportable expenses” includes the costs of transportation, accommodation, meals, hospitality and incidental expenses;

“special purpose report” means a report described in section 66;

“standards” means the standards established from time to time under the Act;

“tax administrator” means the person appointed tax administrator under Wasauksing’s local revenue laws;

“Vice-Chair” means the vice-chair of the FAC appointed under section 12;

“Wasauksing” means the Wasauksing First Nation, a band named in the schedule to the Act;

“Wasauksing’s financial assets” means all money and other financial assets of Wasauksing;

“Wasauksing’s lands” means all reserves of Wasauksing within the meaning of the *Indian Act*;

“Wasauksing law” means any law, including any by-law or Land Code, of Wasauksing made by the Council or the citizens;

“Wasauksing official” means a current or former Councillor, director or employee of Wasauksing;

“Wasauksing’s records” means all records of Wasauksing respecting its governance, management, operations and financial administration; and

“Wasauksing’s tangible capital assets” means all non-financial assets of Wasauksing having physical substance that

- (a) are held for use in the production or supply of goods and services, for rental to others, for administrative purposes or for the development, construction, maintenance or repair of other tangible capital assets,
- (b) have useful economic lives extending beyond an accounting period,
- (c) are to be used on a continuing basis,
- (d) are not for sale in the ordinary course of operations, and
- (e) have a replacement value of twenty thousand dollars (\$20,000) or more.

(2) Except as otherwise provided in this Law, words and expressions used in this Law have the same meanings as in the Act.

(3) Unless a word or expression is defined under subsection (1) or (2) or another provision of this Law, the definitions in the *Interpretation Act* apply.

(4) All references to named enactments in this Law are to enactments of the Government of Canada.

**Interpretation**

3.(1) In this Law, the following rules of interpretation apply:

- (a) words in the singular include the plural, and words in the plural include the singular;
- (b) if a word or expression is defined, other parts of speech and grammatical forms of the same word or expressions have corresponding meanings;
- (c) the expression "shall" is to be construed as imperative, and the expression "may" is to be construed as permissive;
- (d) unless the context indicates otherwise, "including" means "including, but not limited to", and "includes" means "includes, but not limited to"; and
- (e) a reference to an enactment includes any amendment or replacement of it and every regulation made under it.

(2) This Law shall be considered as always speaking and where a matter or thing is expressed in the present tense, it shall be applied to the circumstances as they arise, so that effect may be given to this Law according to its true spirit, intent and meaning.

(3) Words in this Law referring to a director, by name of office or otherwise, also apply to any person designated by the Council to act in the director's place or to any person assigned or delegated to act in the director's place under this Law.

**Posting of Public Notice**

4.(1) If a public notice is required under this Law, the public notice is properly given if

- (a) a written notice is placed on Wasauksing's website;
- (b) a written notice is placed in the Wasauksing newsletter;
- (c) a written notice is posted in a public place on Wasauksing's lands; or
- (d) an announcement is made on Wasauksing's radio station.

(2) Unless expressly provided otherwise, if a public notice of a meeting shall be posted under this Law the notice shall be posted at least seven (7) days before the date of the meeting, or less if the matter is urgent.

**Calculation of Time**

5. In this Law, time shall be calculated in accordance with the following rules:

- (a) where the time limited for taking an action ends or falls on a holiday, the action may be taken on the next day that is not a holiday;
- (b) where there is a reference to a number of days, not expressed as “clear days”, between two events, in calculating that number of days the day on which the first event happens is excluded and the day on which the second event happens is included;
- (c) where a time is expressed to begin or end at, on or within a specified day, or to continue to or until a specified day, the time includes that day;
- (d) where a time is expressed to begin after or to be from a specified day, the time does not include that day; and
- (e) where anything is to be done within a time after, from, of or before a specified day, the time does not include that day.

**Conflict of Laws**

6.(1) If there is a conflict between this Law and another Wasauksing law, other than a Land Code or a local revenue law, this Law prevails.

(2) If there is a conflict between this Law and the Act, the Act prevails to the extent of the conflict.

(3) If there is a conflict between this Law and the Land Code, the Land Code prevails to the extent of the conflict.

(4) If there is a conflict between this Law and a local revenue law, the local revenue law prevails to the extent of the conflict.

**Scope and Application**

7. This Law applies to the financial administration of Wasauksing.

**PART III - Administration**

***DIVISION 1 - Council***

**Responsibilities of Council**

8.(1) The Council is responsible for all matters relating to the financial administration of Wasauksing whether or not they have been assigned or delegated to a director, employee, committee, contractor or agent by or under this Law.

(2) Subject to paragraph 5(1)(f) of the Act, this Law and any other applicable Wasauksing law, the Council may delegate to any of its directors, employees, committees, contractors or agents any of its functions under this Law except the following:

- (a) the approval of Council policies, procedures or directions;



- (b) the appointment of the Chair, the Vice-Chair, and members of the FAC;
- (c) the approval of annual budgets and financial statements of Wasauksing; and
- (d) the approval of borrowing of Wasauksing.

**Council Policies, Procedures and Directions**

9.(1) Subject to subsection (3), the Council may establish policies and procedures and give directions respecting any matter relating to the financial administration of Wasauksing.

(2) The Council shall establish policies and procedures respecting the avoidance and mitigation of conflicts of interest, including the following:

- (a) defining the private interests of Councillors, directors, employees, committee members, contractors and agents that could result in a conflict of interest;
- (b) requiring Councillors to annually disclose relevant information respecting their private interests which could result in a conflict of interest;
- (c) requiring the disclosure, by the persons referred to in paragraph (a), of actual or potential conflicts of interests as they arise, and keeping records of such disclosures;
- (d) specifying restrictions on the acceptance of gifts and benefits by any person referred to in paragraph (a) that might reasonably be seen to have been offered in order to influence the making of a decision by that person;
- (e) prohibiting any person referred to in paragraph (a) who has a conflict of interest from attempting to influence a decision or from participating in the making of a decision respecting the matter in which the person has a conflict of interest; and
- (f) specifying how any undisclosed or any alleged but not admitted conflicts of interest of Councillors are to be addressed.

(3) The Council shall establish policies or procedures or give directions respecting the acquisition, management and safeguarding of Wasauksing assets.

(4) The Council shall not establish any policies or procedures or give any directions relating to the financial administration of Wasauksing that are in conflict with this Law, the Act or GAAP.

(5) The Council shall ensure that all human resources policies and procedures are designed and implemented to facilitate effective internal financial administration controls.

(6) The Council shall document all its policies, procedures and directions and make them available to any person who is required to act in accordance with them or who may be directly affected by them.

**Reporting of Remuneration and Expenses**

10.(1) Annually the director of finance shall prepare a report separately listing the remuneration paid and reportable expenses reimbursed by Wasauksing, and by any entity, to each Councillor whether such amounts are paid to the Councillor while acting in that capacity or in any other capacity.

- (2) Subsection (1) does not require the reporting of remuneration, expenses or benefits received
  - (a) in common by all citizens;
  - (b) under a program or service universally accessible to all citizens on published terms and conditions; or
  - (c) from a trust arrangement according to the terms of the trust.

***DIVISION 2 - Finance and Audit Committee***

**FAC Established**

11.(1) The FAC of Wasauksing is established to provide the Council with advice and recommendations in order to support the Council's decision-making process respecting the financial administration of Wasauksing.

(2) The Council shall appoint not less than three (3) members of the FAC, a majority of whom shall have financial competency, and all of whom shall be independent.

- (3) If the FAC consists of
  - (a) three (3) members, at least one (1) of the FAC members shall be a Councillor; and
  - (b) four (4) or more members, at least two (2) of the FAC members shall be Councillors.

(4) For purposes of this section, an individual is considered to be independent if the individual does not have a direct or indirect financial relationship with Wasauksing government that could, in the opinion of the Council, reasonably interfere with the exercise of independent judgment as a member of the FAC.

- (5) The Council shall establish policies or procedures or give directions
  - (a) setting criteria to determine if an individual is eligible to be a member of the FAC and is independent;
  - (b) requiring confirmation, before appointment, that each potential member of the FAC is eligible to be a member and is independent; and
  - (c) requiring each member of the FAC annually to sign a statement confirming that the member continues to meet the criteria referred to in paragraph (a).

(6) Subject to subsections (7) and (8), the Council shall appoint FAC members to hold office for staggered terms, as follows:

(a) Councillors shall be appointed to the FAC as soon as practicable following Council elections and shall sit on the FAC until the next Council election;

(b) non-Councillors shall be appointed for three (3) year terms, which terms shall commence on the date that is three (3) months after the date of the previous Council election; and

(c) notwithstanding paragraphs (a) and (b), for their first terms only, the Council shall appoint FAC members as soon as practicable after this Law comes into effect, who shall serve until

(i) the next Council election, in the case of Councillors, and

(ii) April 30 of the second full fiscal year after their appointment, in the case of non-Councillors.

(7) A FAC member may be removed from office by the Council if

(a) the member has unexcused absences from three (3) scheduled meetings of the FAC;

(b) the member fails to perform any of their duties in good faith;

(c) the member breaches this Law or the COIP; or

(d) the Chair or the Vice-Chair recommends removal, on reasonable grounds.

(8) If a FAC member is removed from office, resigns or dies before the member's term of office expires, the Council shall as soon as practicable appoint a new FAC member to hold office for the remainder of the first member's term of office.

(9) If a FAC member is unable to attend or participate in a FAC meeting due to personal circumstances or a conflict of interest, and the member's absence will leave the FAC without a quorum, the Council may appoint an alternate member to participate as needed, provided that the person appointed as an alternate member satisfies all of the requirements set out in this Law for being a member of the FAC.

#### **Chair and Vice-Chair**

**12. (1)** The Council shall appoint a Chair and a Vice-Chair of the FAC, one of whom shall be Councillors.

(2) If the Council appoints a non-Councillor as Chair,

(a) the Council shall send to the Chair notices and agendas of all Council meetings;

(b) on request of the Chair, the Council shall provide the Chair with any materials or information provided to the Council respecting matters before it; and

(c) the Chair may attend and speak at Council meetings.

**FAC Procedures**

13.(1) The quorum of the FAC is fifty percent (50%) of the total number of FAC members, including at least one (1) Councillor.

(2) Except where a FAC member is not permitted to participate in a decision because of a conflict of interest, every FAC member has one (1) vote in all FAC decisions.

(3) In the event of a tie vote in the FAC, the Chair may cast a second tie-breaking vote.

(4) Subject to subsection (5), the chief executive director and the director of finance shall be notified of all FAC meetings and, subject to reasonable exceptions, shall attend those meetings.

(5) The chief executive director or the director of finance may be excluded from all or any part of a FAC meeting by a recorded vote if

(a) the subject matter relates to a confidential personnel or performance issue respecting the chief executive director or the director of finance; or

(b) it is a meeting with the auditor.

(6) The FAC shall meet

(a) at least once every quarter in each fiscal year as necessary to conduct the business of the FAC; and

(b) as soon as practical after it receives the audited annual financial statements and report from the auditor.

(7) The FAC shall provide minutes of its meetings to the Council and report to the Council on the substance of each FAC meeting as soon as practicable after each meeting.

(8) Subject to this Law and any directions given by the Council, the FAC may make rules for the conduct of its meetings.

(9) The Council may appoint a Wasauksing director or employee as the secretary to the FAC for the purpose of providing administrative support to the FAC.

(10) After consultation with the chief executive director, the FAC may retain a consultant to assist in the performance of any of its responsibilities.

**Financial Planning Responsibilities**

14.(1) The FAC shall carry out the following activities in respect of the financial administration of Wasauksing:

(a) annually review, and recommend to the Council for approval, the multi-year financial plan;

(b) review draft annual budgets and recommend them to the Council for approval;

- (c) on an ongoing basis, monitor the financial performance of Wasauksing against the annual budget and report any significant variations to the Council;
- (d) review the quarterly financial statements and recommend them to the Council for approval; and
- (e) other duties as directed by the Council under this Law.

(2) The FAC may make a report or recommendations to the Council on any matter respecting the financial administration of Wasauksing that is not otherwise specified to be its responsibility under this Law.

#### **Audit Responsibilities**

**15.** The FAC shall carry out the following audit activities in respect of the financial administration of Wasauksing:

- (a) make recommendations to the Council on the selection, engagement and performance of an auditor;
- (b) receive assurances on the independence of a proposed or appointed auditor;
- (c) review and make recommendations to the Council on the planning, conduct and results of audit activities;
- (d) review and make recommendations to the Council on the audited annual financial statements, including the audited annual financial statements respecting the local revenue account and any special purpose reports;
- (e) periodically review and make recommendations to the Council on policies, procedures and directions on reimbursable expenses and benefits of the Councillors, directors and employees of Wasauksing;
- (f) monitor financial reporting risks and fraud risks and the effectiveness of mitigating controls for those risks taking into consideration the cost of implementing those controls;
- (g) conduct a review of this Law under section 94 and, where appropriate, recommend amendments to the Council; and
- (h) at least every two years, review and make recommendations to the Council on the terms of reference of the FAC.

#### **Council Assigned Responsibilities**

**16.** The Council may assign to the FAC the following activities in respect of the financial administration of Wasauksing:

- (a) to develop, and recommend to the Council for approval, performance measurements and goals designed to confirm that management activities, including financial management, occur as planned;

- (b) to prepare, and recommend to the Council for approval, cash management plans;
- (c) to review and report to the Council on the financial content of any Wasauksing reports;
- (d) to review, monitor and report to the Council on the appropriateness of Wasauksing's accounting and financial reporting systems, policies and practices;
- (e) to review, and recommend to the Council for approval, any proposed significant changes in Wasauksing's accounting or financial reporting systems, policies, procedures or directions;
- (f) to monitor the collection and receipt of Wasauksing's financial assets, including debts owed to Wasauksing;
- (g) to review and report to the Council on Wasauksing's risk management policies and control and information systems and, where appropriate, recommend improvements to the Council;
- (h) to review the adequacy of security of information, information systems and recovery plans and, where appropriate, recommend improvements to the Council;
- (i) to monitor compliance with the legal obligations of Wasauksing, including legislative, regulatory and contractual obligations, and report to the Council;
- (j) to review and report to the Council on the adequacy of financial administration personnel and resources;
- (k) to review, monitor and report to the Council on the adequacy and appropriateness of Wasauksing's insurance coverage respecting significant First Nation risks; and
- (l) to review, monitor and report to the Council on material litigation and its impact on financial administration and reporting.

### ***DIVISION 3 - Directors and Employees***

#### **Chief Executive Director**

17.(1) The Council shall appoint a person as chief executive director of Wasauksing and may set the terms and conditions of that appointment.

(2) Reporting to the Council, the chief executive director is responsible for leading the planning, organization, implementation and evaluation of the overall management of all the day-to-day operations of Wasauksing, including the following duties:

- (a) developing and recommending to the Council for approval, human resources policies and procedures for the hiring, management and dismissal of directors and employees of Wasauksing;
- (b) preparing and recommending to the Council for approval, descriptions of the powers, duties and functions of all employees of Wasauksing;
- (c) hiring the employees of Wasauksing, as the chief executive director considers necessary, and setting the terms and conditions of their employment;

- (d) overseeing, supervising and directing the activities of all directors and employees of Wasauksing;
- (e) overseeing and administering the contracts of Wasauksing;
- (f) preparing, recommending to the Council and maintaining and revising as necessary the organization chart referred to in section 20;
- (g) identifying, assessing, monitoring and reporting on financial reporting risks and fraud risks;
- (h) monitoring and reporting on the effectiveness of mitigating controls for the risks referred to in paragraph (g) taking into consideration the cost of implementing those controls;
- (i) performing any other duties of the chief executive director under this Law; and
- (j) carrying out any other activities specified by the Council that are not contrary to the Act or inconsistent with the chief executive director's duties specified in this Law.

(3) The chief executive director may assign the performance of any of the chief executive director's duties or functions

- (a) to a director or employee of Wasauksing; and
- (b) with the approval of the Council, to a contractor or agent of Wasauksing.

(4) Any assignment of duties or functions under subsection (3) does not relieve the chief executive director of the responsibility to ensure that these duties or functions are carried out properly.

**Director of Finance**

**18.(1)** The chief executive director shall appoint a person as director of finance of Wasauksing and may set the terms and conditions of that appointment.

(2) Reporting to the chief executive director, the director of finance is responsible for the day-to-day management of the systems of the financial administration of Wasauksing, including the following duties:

- (a) ensuring the financial administration systems, policies, procedures, directions and internal controls are appropriately designed and operating effectively;
- (b) administering and maintaining all charts of accounts of Wasauksing, other than the local revenue account;
- (c) preparing the draft annual budgets and, with advice and input from the tax administrator, preparing any draft amendments to the component of the annual budget respecting Wasauksing's local revenues;
- (d) preparing the monthly financial information required in section 62, the quarterly financial statements required in section 63 and the draft annual financial statements required in section 64;

- (e) preparing the financial components of reports to the Council and of the multi-year financial plan referred to in subsection 14(1);
- (f) actively monitoring compliance with any agreements and funding arrangements entered into by Wasauksing;
- (g) administering and supervising the preparation and maintenance of financial records and the financial administration reporting systems;
- (h) administering and supervising the maintenance of the records of all receipts and expenditures of Wasauksing to facilitate the annual audit;
- (i) actively monitoring compliance with the Act, this Law, any other applicable Wasauksing law, applicable standards and any policies, procedures and directions of the Council respecting the financial administration of Wasauksing;
- (j) preparing or providing any documentation and financial information required by the Council or the FAC to discharge its responsibilities;
- (k) evaluating the financial administration systems of Wasauksing and recommending improvements to the FAC;
- (l) developing and recommending procedures for the safeguarding of assets and to ensure approved procedures are followed;
- (m) developing and recommending procedures to the Council for identifying and mitigating financial reporting and fraud risks and to ensure approved procedures are followed;
- (n) performing any other duties of the director of finance under this Law; and
- (o) carrying out any other activities specified by the chief executive director that are not contrary to the Act or inconsistent with the director of finance's duties under this Law.

(3) With the approval of the chief executive director, the director of finance may assign the performance of any of the duties or functions of the director of finance to any director, employee, contractor or agent of Wasauksing, but this assignment does not relieve the director of finance of the responsibility to ensure that these duties or functions are carried out properly.

**Tax Administrator**

19.(1) Reporting to the chief executive director, the tax administrator is responsible for performing the tax administrator's duties or functions under Wasauksing's local revenue laws, the Act and this Law.

(2) In addition to any duties or functions under Wasauksing's local revenue laws and the Act, the tax administrator is responsible for the following:

- (a) managing local revenues and the local revenue account on a day-to-day basis;
- (b) recommending to the director of finance the draft and amended budgets for the component of the annual budget respecting local revenues;



- (c) recommending to the director of finance the local revenues components of the multi-year financial plan;
- (d) on request, providing advice to the chief executive director, director of finance, FAC and the Council respecting local revenues matters;
- (e) monitoring compliance with the Act, Wasauksing's local revenue laws and this Law in the administration of local revenues and the local revenue account; and
- (f) performing any other duties of the tax administrator under this Law.

(3) With the approval of the chief executive director, the tax administrator may assign the performance of any of the duties or functions of the tax administrator to any director, employee, contractor or agent of Wasauksing, but this assignment does not relieve the tax administrator of the responsibility to ensure that these duties or functions are carried out properly.

**Organizational Structure**

20.(1) The Council shall establish and maintain a current organization chart for the governance, management and administrative systems of Wasauksing, which shall include the following information:

- (a) all governance, management and administrative systems of Wasauksing;
- (b) the organization of the systems described in paragraph (a), including the linkages between them;
- (c) the specific roles and responsibilities of each level of the organization of the systems described in paragraph (a); and
- (d) all governance, management and administrative positions at each level of the organization of the systems described in paragraph (a), including
  - (i) the membership on the Council, the FAC and all other committees of the Council and Wasauksing,
  - (ii) the chief executive director, the director of finance, the tax administrator and other directors of Wasauksing, and
  - (iii) the principal lines of authority and responsibility between the Council, the committees referred to in subparagraph (i) and the directors referred to in subparagraph (ii).

(2) On request, the chief executive director shall provide a copy of the organization chart under subsection (1) to a Councillor, a member of a committee referred to in subparagraph (1)(d)(i), a director, employee or contractor or agent of Wasauksing, and a citizen.

(3) In the course of discharging their responsibilities under this Law, the chief executive director shall recommend to the Council for approval and implementation human resource policies and procedures that facilitate effective internal financial administration controls.

(4) The Council shall take all reasonable steps to ensure that Wasauksing hires or retains qualified and competent personnel to carry out the financial administration activities of Wasauksing.

#### ***DIVISION 4 - Conduct Expectations***

##### **Conduct of Councillors**

**21.(1)** When exercising a power, duty or responsibility relating to the financial administration of Wasauksing, a Councillor shall

- (a) comply with this Law, the Act, any other applicable Wasauksing law and any applicable standards;
- (b) act honestly, in good faith and in the best interests of Wasauksing;
- (c) exercise the care, diligence and skill that a reasonably prudent individual would exercise in comparable circumstances; and
- (d) avoid conflicts of interest and comply with the requirements of the COIP, including required annual disclosures of private interests.

(2) If it has been determined under this Law or by a court of competent jurisdiction that a Councillor has contravened this section,

- (a) the Councillor shall be removed from the FAC, in accordance with subsection 11(7), if applicable;
- (b) Wasauksing may use any legal means available to remedy the situation; and
- (c) the Council shall communicate the determination to the citizens as soon as practicable after the contravention was determined.

##### **Conduct of Directors, Employees, Committee Members, Contractors and Agents**

**22.(1)** This section applies to

- (a) a director, employee, contractor and agent of Wasauksing;
- (b) a person acting under the delegated authority of the Council or Wasauksing; or
- (c) a member of a committee of the Council or Wasauksing who is not a Councillor.

(2) If a person is exercising a power, duty or responsibility relating to the financial administration of Wasauksing, that person shall

- (a) comply with this Law, the Act, any other applicable Wasauksing law and any applicable standards;
- (b) comply with all policies, procedures and directions of the Council; and

(c) avoid conflicts of interest and comply with any applicable requirements of the COIP, including required disclosure of potential conflicts of interest.

(3) All directors, employees, committee members, contractors and agents shall disclose as soon as practicable any circumstances that could result in a conflict of interest.

(4) The Council shall incorporate the relevant provision of this section into

(a) the terms of employment or appointment of every director or employee of Wasauksing;

(b) the terms of every contract of a contractor of Wasauksing;

(c) the terms of appointment of every member of a committee who is not a Councillor; and

(d) the terms of appointment of every agent of Wasauksing.

(5) If a person contravenes subsection (2), the following actions may be taken:

(a) a director or employee may be disciplined, including dismissal;

(b) a contractor's contract may be terminated;

(c) the appointment of a member of a committee may be revoked;

(d) the appointment of an agent may be revoked; and

(e) Wasauksing may use any legal means available to it to remedy the situation.

## **PART IV - Financial Management**

### ***DIVISION 1 - Financial Plans and Annual Budgets***

#### **Fiscal Year**

23. The fiscal year of Wasauksing is April 1 to March 31 of the following year.

#### **Multi-year Financial Plan**

24. No later than March 31 of each year, the Council shall approve a multi-year financial plan that

(a) has a planning period of five (5) years comprised of the current fiscal year and the four (4) succeeding fiscal years;

(b) is based on the projections of revenues, expenditures and transfers between accounts;

(c) sets out projected revenues, segregated by significant category;

(d) sets out projected expenditures, segregated by significant category;

- (e) in respect of transfers between accounts, sets out the amounts from the tangible capital asset reserve account;
- (f) shows all categories of restricted cash; and
- (g) indicates whether in any of the five (5) years of the plan a deficit or surplus is expected from the projection of revenues and expenditures for that year.

**Content of Annual Budget**

**25.(1)** The annual budget shall encompass all the operations for which Wasauksing is responsible and shall identify

- (a) anticipated revenues, segregated by significant category, with estimates of the amount of revenue from each category;
- (b) anticipated expenditures, segregated by significant category, with estimates of the amount of expenditure for each category; and
- (c) any anticipated surplus or authorized deficit and the application of year-end surplus.

(2) The revenue category of moneys derived from Wasauksing's lands shall be shown separately in the annual budget from other revenues and shall include a sub-category for revenues from natural resources obtained from Wasauksing's lands.

**Annual Budget and Planning Process Schedule**

**26.(1)** On or before February 28 of each year, the director of finance shall prepare and submit to the FAC for review a draft annual budget and a draft multi-year financial plan for the next fiscal year.

(2) On or before March 15 of each year, the FAC shall review

- (a) the draft annual budget and recommend an annual budget to the Council for approval; and
- (b) the draft multi-year financial plan and recommend a multi-year financial plan to the Council.

(3) On or before March 31 of each year, the Council shall review and approve the annual budget for Wasauksing for the next fiscal year.

(4) In the event that there is a material variance in the forecasted revenues or expenditures respecting local revenues,

- (a) on or before June 15 of each year, the director of finance shall prepare and submit to the FAC for review a draft amendment of the component of the annual budget respecting Wasauksing's local revenues;
- (b) on or before June 30 of each year, the FAC shall review the draft amendment of the component of the annual budget respecting Wasauksing's local revenues and recommend an amendment to the annual budget to the Council for approval; and

- (c) no later than July 15 of each year, the Council shall approve the amendment of the component of the annual budget respecting Wasauksing's local revenues.

**Additional Requirements for Annual Budget Deficits**

- 27. If a draft annual budget contains a proposed deficit, the Council shall ensure that
  - (a) no portion of the proposed deficit originates in or relates to local revenues;
  - (b) the multi-year financial plan of Wasauksing demonstrates how and when the deficit will be addressed and how it will be serviced; and
  - (c) the deficit does not have a negative impact on the credit worthiness of Wasauksing.

**Amendments to Annual Budgets**

- 28.(1) The annual budget of Wasauksing shall not be changed without the approval of the Council.
- (2) Subject to subsection 26(4) and section 36, unless there is a material variance in the forecasted revenues or expenses of Wasauksing, the Council shall not approve a change to the annual budget of Wasauksing.

**Local Revenues Budget Requirements**

- 29. Despite any other provisions of this Law, any part of a budget relating to local revenues shall be prepared, approved and amended in accordance with applicable provisions of the Act and of the FNTC standards.

**Policy for Citizen Information or Involvement**

- 30.(1) The Council shall consider the following matters at a Council meeting:
  - (a) the annual budget, including any component of the annual budget respecting Wasauksing's local revenues;
  - (b) an amendment to the annual budget;
  - (c) the multi-year financial plan;
  - (d) annual budget deficits or extraordinary expenditures;
  - (e) capital projects;
  - (f) borrowing for capital projects; and
  - (g) proposed amendments to this Law.
- (2) Notice of a Council meeting under subsection (1) shall be given at least one (1) week in advance of the meeting.

(3) Citizens in attendance at a Council meeting may participate in discussions regarding any of the matters under subsection (1).

## ***DIVISION 2 - Financial Institution Accounts***

### **Financial Institution Accounts**

**31.(1)** No account may be opened for the receipt and deposit of money of Wasauksing unless the account is

- (a) in the name of Wasauksing;
- (b) opened in a financial institution; and
- (c) authorized by the chief executive director or the director of finance, at the direction of the Council.

(2) Wasauksing shall establish the following accounts in a financial institution:

- (a) a general account for money from any sources other than those described in paragraphs (b) to (e);
- (b) a local revenue account for money from local revenues;
- (c) a trust account if Wasauksing has money held in trust;
- (d) a land and resources account for money from revenues from Wasauksing's lands; and
- (e) a tangible capital asset reserve account for money set aside for purposes of section 80.

(3) Wasauksing may establish any other accounts not referred to in subsection (2) as may be necessary and appropriate to manage Wasauksing's financial assets.

### **Accounts Management**

**32.(1)** The director of finance shall take all reasonable steps to ensure the safekeeping of all money received by Wasauksing.

(2) The director of finance shall ensure that

- (a) all money received by Wasauksing is deposited as soon as practicable into the appropriate accounts described in section 31; and
- (b) no payment of money from an account described in section 31 is authorized unless the payment relates to the subject matter for which the account was established and is otherwise authorized or permitted under this Law.

### ***DIVISION 3 - Expenditures and Cash Management***

#### **Prohibited Expenditures**

33.(1) Money or financial assets in a trust account shall not be used for a purpose other than that permitted under the terms of the trust.

(2) Money in a local revenue account shall not be used for any purpose other than that authorized in a local revenue law or as permitted under section 13.1 of the Act.

(3) Money in a tangible capital asset reserve account shall not be used for any purpose other than that described in Part V.

#### **Prohibited Agreements**

34. Wasauksing shall not enter into an agreement or undertaking that requires Wasauksing to expend money that is not authorized by or that contravenes this Law, a local revenue law or the Act.

#### **Appropriations**

35.(1) Subject to Council policies or procedures regarding emergency expenditures, money shall not be paid out of any account unless the expenditure is authorized under an appropriation.

(2) Subsection (1) does not apply to expenditures from a trust account where the expenditure is authorized under the terms of the trust.

(3) An amount that is appropriated in a budget shall not be expended for any purpose other than that described in the appropriation.

(4) The total amount expended by Wasauksing in relation to an appropriation shall not exceed the amount specified in the budget for Wasauksing for that appropriation.

(5) Every person who is responsible for managing an appropriation shall establish and maintain a current record of commitments chargeable to that appropriation.

#### **Emergency Expenditures**

36. The chief executive director may approve an expenditure for an emergency purpose that was not anticipated in the budget if the expenditure is not expressly prohibited by or under this Law or another Wasauksing law.

#### **Payments after Fiscal Year-End**

37.(1) Money appropriated in a budget for a fiscal year shall not be expended after the end of the fiscal year except to discharge a liability incurred in that fiscal year.

(2) If the liabilities for an appropriation under subsection (1) exceed the unexpended balance of the appropriation at the end of the fiscal year, the excess shall be

(a) charged against a suitable appropriation for the following fiscal year; and

- (b) reported in the financial statements for the fiscal year in which the liability was incurred.

**Requisitions for Payment**

**38.(1)** No money may be paid out of any account without a requisition for payment as required under this section.

(2) No requisition may be made or given for a payment of money unless it is a lawful charge against an appropriation or an authorized use of money in a trust.

(3) No requisition may be made or given for payment of money that results in expenditures from a trust account in excess of the unexpended balance of the trust account.

(4) No requisition may be made or given for payment of money that reduces the balance available in an appropriation or trust account so that it is not sufficient to meet the commitments chargeable against it.

(5) A requisition may apply to one or more expenditures chargeable against one or more appropriations.

(6) If a requisition is for the payment of performance of work or services or the supply of goods, the requisition shall include a statement certifying that

(a) the work or services have been performed or the goods supplied, any conditions in an agreement respecting the work, services or goods have been met and the price charged or amount to be paid is in accordance with an agreement or, if not specified by agreement, is reasonable; or

(b) if payment is to be made before completion of the work or services, delivery of the goods or satisfaction of any conditions in an agreement, the payment is in accordance with the agreement.

(7) The Council shall make policies or procedures or give directions respecting the issuance and approval of requisitions.

(8) The chief executive director or the director of finance shall authorize payment out of, or sign a requisition for payment from, a trust account.

(9) The tax administrator shall authorize payment out of a local revenue account.

(10) Subject to subsection (9), the chief executive director or director of finance may authorize a payment out of, or sign a requisition for payment from, any appropriation.

(11) Subject to subsections (8) and (9), a person who is responsible for managing an appropriation may authorize payment out of, or sign a requisition for payment from, the appropriation.

**Form of Payment**

**39.** Payments by Wasauksing may be made by cheque, draft, electronic transfer or other similar instrument signed or authorized by any two (2) of the following:

- (a) Councillors,



- (b) the chief executive director, and
- (c) the director of finance.

**Cash Management**

40. The Council shall make policies or procedures or give directions respecting effective cash management.

***DIVISION 4 - Borrowing***

**Limitations on Borrowing**

41.(1) Except as specifically authorized in this Law or in a local revenue law, Wasauksing shall not borrow money or grant security.

(2) If Wasauksing is specifically authorized to borrow money or grant security, then the Council may, by direction, authorize the chief executive director to borrow money or grant security in the name of Wasauksing, subject to this Law.

**Borrowing for Ordinary Operations**

42.(1) Wasauksing may incur trade accounts or other current liabilities payable within normal terms of trade for expenditures provided for in the budget for the fiscal year if the debt shall be repaid from money appropriated under an appropriation for the fiscal year or is in respect of an expenditure that may be made without the authority of an appropriation under this Law.

(2) Wasauksing may enter into agreements with financial institutions for overdrafts or lines of credit and, for the purpose of securing any overdrafts or lines of credit, may grant security to the financial institution in a form, amount, and on terms and conditions that the Council approves.

(3) Wasauksing may enter into a general security agreement or a lease for the use or acquisition of lands, materials or equipment required for the operation, management or administration of Wasauksing.

**Financial Agreements**

43. At the direction of the Council, the director of finance may enter into the following agreements in the name of Wasauksing:

- (a) for the purpose of efficient management of Wasauksing's financial assets, agreements with financial institutions and related services agreements; and
- (b) for the purpose of reducing risks or maximizing benefits in relation to the borrowing, lending or investing of Wasauksing's financial assets, agreements with financial institutions respecting currency exchange, spot and future currency, interest rate exchange and future interest rates.

**Borrowing for Authorized Expenditures**

44.(1) If the general account described in paragraph 31(2)(a) is not sufficient to meet the expenditures authorized to be made from it and the director of finance recommends that money be borrowed to ensure that the general account is sufficient for these purposes, Wasauksing may borrow an amount not exceeding a maximum amount specified by the Council and to be repaid within a specified period of time.

(2) Despite the repayment terms specified in subsection (1), if the money borrowed under subsection (1) is no longer required for the purpose for which it was borrowed, the money shall be repaid as soon as possible.

**Borrowing Member Requirements**

45. If Wasauksing is a borrowing member, then

(a) if Wasauksing has obtained long-term financing secured by property taxes from the FNFA, it shall not subsequently obtain long-term financing secured by property tax revenues from any other person;

(b) Wasauksing may only obtain long-term financing from the FNFA as permitted under its local revenue law and the Act; and

(c) Wasauksing may only use money borrowed under this section for the purposes permitted under the Act and under the *Financing Secured by Other Revenues Regulations*, as applicable.

**Borrowing for Repayment of Debts**

46. Subject to this Law and a local revenue law, and in accordance with Council policies and procedures, the Council may authorize the borrowing of money that is required for the repayment or refinancing of any debt of Wasauksing, other than a debt in relation to money borrowed under subsection 44(1), if it will result in a lower interest rate, or more favourable terms, for Wasauksing.

**Use of Borrowed Money**

47.(1) Subject to this section and any local revenue law, money borrowed by Wasauksing for a specific purpose shall not be used for any other purpose.

(2) All or some of the money borrowed for a specific purpose by Wasauksing and not required to be used immediately for that purpose may be temporarily invested under subsection 54(1) until required for that purpose.

(3) If some of the money borrowed for a specific purpose is no longer required for that purpose, that money shall be applied to repay the debt from the borrowing.

**Execution of Security Documents**

48.(1) Subject to subsection (2), a security granted by Wasauksing shall be signed by a Councillor designated by the Council and by the chief executive director or the director of finance.

(2) A security granted by Wasauksing in respect of local revenues shall be signed by a Councillor designated by the Council and by the tax administrator.

**Operational Controls**

49. The Council shall establish policies or procedures or give directions respecting the establishment and implementation of an effective system of internal controls that ensures the orderly and efficient conduct of Wasauksing's operations.

***DIVISION 5 - Risk Management***

**Limitation on Business Activity**

50.(1) Subject to subsections (2) and (3), Wasauksing shall not

- (a) carry on business as a proprietor;
- (b) acquire an interest in a partnership as a general partner; or
- (c) act as a trustee respecting property used for, or held in the course of, carrying on a business.

(2) Wasauksing may carry on a business that

(a) is ancillary or incidental to the provision of programs or services or other functions of Wasauksing governance; or

(b) derives income from the granting of a lease or licence of or is in respect of

- (i) an interest in, or natural resources on or under, Wasauksing's lands or lands owned in fee simple by, or in trust for, Wasauksing, or
- (ii) any other property of Wasauksing.

(3) Wasauksing may carry on business activities for the primary purpose of profit if the Council determines that the business activities

(a) do not result in a material liability for Wasauksing; or

(b) do not otherwise expose Wasauksing's financial assets, property or resources to significant risk.

(4) The Council may impose terms and conditions on the conduct of any business activity permitted under this section in order to manage any risks associated with that activity.

**Guarantees and Indemnities**

51.(1) Wasauksing shall not give a guarantee unless the director of finance has prepared, and the Council has considered, a report identifying any risks associated with giving the guarantee and assessing the ability of Wasauksing to honour the guarantee should it be required to do so.

(2) Wasauksing shall not give an indemnity unless it is

- (a) authorized under section 93;
- (b) necessary and incidental to and included in another agreement to which Wasauksing is a party;  
or
- (c) in relation to a security granted by Wasauksing that is authorized under this Law or another Wasauksing law.

(3) Subject to a resolution described in section 93, the Council shall make policies and directions respecting guarantees and indemnities as follows:

- (a) specifying circumstances under which an indemnity may be given without Council approval;
- (b) designating the persons who may give an indemnity on behalf of Wasauksing and specifying the maximum amount of any indemnity which may be given by them;
- (c) specifying any terms or conditions under which a guarantee or indemnity may be given; and
- (d) specifying the records to be maintained of all guarantees and indemnities given by Wasauksing.

**Ministerial Loan Guarantees**

52.(1) For greater certainty, nothing in this Law prevents the Council from authorizing a Ministerial Loan Guarantee on a mortgage held by Wasauksing or a citizen.

(2) The Council shall establish policies or procedures respecting the authorization of Ministerial Loan Guarantees, including

- (a) criteria for evaluating the ability of the mortgage-holder to make mortgage payments;
- (b) a requirement for assessing the risk to Wasauksing; and
- (c) a requirement for evaluating whether the Ministerial Loan Guarantee could negatively impact Wasauksing's credit-worthiness, financial position, or status as a borrowing member.

**Authority to Invest**

53.(1) Except as specifically authorized in this Law or another Wasauksing law, Wasauksing shall not invest Wasauksing's financial assets.

(2) If Wasauksing is authorized in this Law or another Wasauksing law to invest Wasauksing's financial assets, the Council may authorize the director of finance to invest Wasauksing's financial assets

- (a) as specifically approved by the Council; or
- (b) in accordance with the policies, procedures or directions made by the Council.

**Approved Investments**

54.(1) Money in an account described in section 31 that is not immediately required for expenditures may be invested by Wasauksing in one or more of the following:

- (a) securities issued or guaranteed by Canada, a province or the United States of America;
- (b) fixed deposits, notes, certificates and other short-term paper of, or guaranteed by, a financial institution, including swaps in United States of America currency;
- (c) securities issued by the FNFA or by a local, municipal or regional government in Canada;
- (d) commercial paper issued by a Canadian company that is rated in the highest category by at least two (2) recognized security-rating institutions;
- (e) any investments a trustee may make under an enactment of a province relating to trustees; or
- (f) any other investments or class of investments prescribed by a regulation under the Act.

(2) Subject to the terms of the trust, money held in trust that is not immediately required for expenditures may be invested by Wasauksing as permitted under the terms of the trust or under the laws of the jurisdiction in which the majority of Wasauksing's lands are located.

(3) If Wasauksing has established an investment account under section 31, then, on the recommendation of the FAC, Wasauksing may invest money in that account in

- (a) a company that is incorporated under the laws of Canada or of a province or territory and in which Wasauksing is a shareholder;
- (b) a trust in which Wasauksing is a beneficiary;
- (c) securities issued by the FNFA or by a local, municipal or regional government in Canada; or
- (d) a limited partnership in which Wasauksing is a partner.

(4) Despite any other provision in this section, Wasauksing may only invest the following in investments specified in subsection 82(3)(a), (b), (c) or (d) of the Act and in investments in securities issued by the FNFA or a municipal finance authority established by a province:

- (a) government transfer funds;
- (b) local revenues; and
- (c) other revenues, if Wasauksing has a loan from the FNFA secured by other revenues.

**No Loans to Third Parties**

55. Wasauksing shall not make a loan to any third party, including to a citizen or to an entity in which a citizen has an interest.

**Administration of Investments**

56. If Wasauksing is authorized to make an investment under this Law, the director of finance may do all things necessary or advisable for the purpose of making, continuing, exchanging or disposing of the investment.

**Risk Assessment and Management**

57.(1) Annually, and more often if necessary, the chief executive director and the director of finance shall identify and assess any significant risks to Wasauksing's financial assets, Wasauksing's tangible capital assets as defined in Part V and the operations of Wasauksing.

(2) Annually, and more often if necessary, the chief executive director and the director of finance shall report to the FAC on proposed plans to mitigate the risks identified in subsection (1) or, where appropriate, to manage or transfer those risks by agreement with others or by purchasing insurance.

**Insurance**

58.(1) On recommendation of the FAC, the Council shall procure and maintain in force all insurance coverage that is appropriate and commensurate with the risks identified in section 57 and any other risks associated with any assets, property or resources under the care or control of Wasauksing.

(2) The Council may purchase and maintain insurance for the benefit of a Councillor, a director, the tax administrator, or their personal representatives against any liability arising from that person being or having been a Councillor, a director or the tax administrator.

**Fraud Risks**

59. The Council shall establish procedures for the identification and assessment of the following types of potential fraud:

- (a) intentional acts in financial reporting that are designed to deceive users of financial reports and that may result in a material omission from or misstatement of financial reports;
- (b) intentional acts in non-financial reporting that are designed to deceive users of non-financial reports;
- (c) theft of Wasauksing assets in circumstances where the theft may result in a material omission or misstatement in financial reports; and
- (d) corruption and illegal acts.

***DIVISION 6 - Financial Reporting***

**GAAP**

60. All accounting practices of Wasauksing shall comply with GAAP.

**Separate Accounting**

**61.(1)** The director of finance shall account for local revenues of Wasauksing separately from other moneys of Wasauksing.

(2) If Wasauksing has a loan from the FNFA that is secured by other revenues, the director of finance shall

- (a) account for all other revenues of Wasauksing separately from other moneys of Wasauksing; and
- (b) provide the FNFA or the FMB, on its request, with accounting information respecting the other revenues.

**Monthly Financial Information**

**62.** No more than twenty-five (25) days following the end of each month, the director of finance shall prepare and provide to the Council and the FAC the financial information respecting the financial affairs of Wasauksing for that month, in the form and with the content approved by the Council on the recommendation of the FAC.

**Quarterly Financial Statements**

**63.(1)** No more than forty-five (45) days following the end of each quarter of the fiscal year, the director of finance shall prepare and provide to the Council and the FAC the financial statements for Wasauksing for that quarter in the form and with the content approved by the Council on the recommendation of the FAC.

(2) The quarterly financial statements in subsection (1) shall be

- (a) reviewed by the FAC and recommended to the Council for approval within ten (10) days of receipt; and
- (b) reviewed and approved by the Council at the next scheduled Council meeting.

**Annual Financial Statements**

**64.(1)** Within forty-five (45) days of the end of each fiscal year, the director of finance shall prepare and provide to the FAC for review, the draft annual financial statements of Wasauksing for that fiscal year

- (a) in accordance with GAAP;
- (b) to a standard that is at least comparable to that generally accepted for governments in Canada; and
- (c) in a form approved by the Council on the recommendation of the FAC.

(2) The annual financial statements shall include the following information:

- (a) the financial information of Wasauksing for the fiscal year;

(b) the financial information for the local revenue account that is required to meet the FMB standards respecting audit of the local revenue account; and

(c) the revenue categories for Wasauksing's lands referred to in subsection 25(2).

(3) The FAC shall present draft annual financial statements to the Council for review within one hundred (100) days following the end of the fiscal year for which they were prepared.

#### **Local Revenues Annual Financial Statements**

**65.(1)** The director of finance and the tax administrator shall prepare separate annual financial statements respecting Wasauksing's local revenues in accordance with FMB standards respecting financial reporting of local revenues.

(2) The provisions of this Law, including this section, respecting separate annual financial statements for local revenues do not apply if FMB standards respecting financial reporting of local revenues permit Wasauksing to report on its local revenues in its audited annual financial statements as a distinct segment of the activities that appear in those statements and Wasauksing chooses to report on its local revenues in that manner.

#### **Special Purpose Reports**

**66.** The director of finance shall prepare the following special purpose reports:

(a) a report setting out all payments made to honour guarantees and indemnities for that fiscal year;

(b) a report setting out the information required in section 10;

(c) a report setting out all debts or obligations written off or forgiven by Wasauksing;

(d) a report setting out moneys of Wasauksing derived from Wasauksing's lands, categorized and shown separately from other revenues and that includes a sub-category respecting revenues from natural resources obtained from Wasauksing's lands; and

(e) any other report required under the Act or an agreement.

#### **Appointment of Auditor**

**67.(1)** Wasauksing shall appoint an auditor for each fiscal year to hold office until the later of

(a) the end of the Council meeting when the audited annual financial statements for that fiscal year are being considered; or

(b) the date the auditor's successor is appointed.

(2) The terms and conditions of the appointment of the auditor shall be set out in an engagement letter approved by the FAC and shall include the auditor's obligation



- (a) to confirm in writing that the annual financial statements and the audit of them comply with this Law, the Act and FMB standards, where applicable, or
  - (b) to the extent they are not in compliance, to identify in writing consequential non-compliance matters.
- (3) To be eligible for appointment as the auditor of Wasauksing, an auditor shall
- (a) be independent of Wasauksing, its related bodies, Councillors, directors, tax administrator and citizens; and
  - (b) be a public accounting firm or public accountant
    - (i) in good standing with the Chartered Professional Accountants of Canada, the Canadian Institute of Chartered Accountants, the Certified General Accountants Association of Canada or the Society of Management Accountants of Canada and their respective counterparts in the province or territory in which the public accounting firm or public accountant is practicing, and
    - (ii) licensed or otherwise authorized to practice public accounting in Ontario.
- (4) If the auditor ceases to be independent, the auditor shall as soon as practicable after becoming aware of the circumstances
- (a) advise Wasauksing in writing of the circumstances; and
  - (b) eliminate the circumstances that resulted in loss of independence or resign as the auditor.

**Audit Requirements**

68.(1) The annual financial statements of Wasauksing referred to in subsections 64(1) and 65(1) shall be audited by the auditor not more than one hundred and twenty (120) days after the fiscal-year end.

(2) The auditor shall conduct the audit of the annual financial statements referred to in both subsections 64(1) and 65(1) in accordance with generally accepted auditing standards established by the Chartered Professional Accountants of Canada.

(3) When conducting the audit, the auditor shall provide

- (a) an audit opinion of the annual financial statements; and
- (b) an audit opinion or review comments on the special purpose reports referred to in section 66.

**Auditor's Authority**

69.(1) To conduct an audit of the annual financial statements of Wasauksing, the auditor shall be given access to

- (a) all Wasauksing's records for examination or inspection and given copies of these records on request; and

(b) any Councillor, director, employee, contractor or agent of Wasauksing to ask any questions or request any information.

(2) On request of the auditor, every person referred to in paragraph (1)(b) shall

(a) make available all records referred to in paragraph (1)(a) that are in that person's care or control; and

(b) provide the auditor with full information and explanation about the affairs of Wasauksing as necessary for the performance of the auditor's duties.

(3) The auditor shall be given notice of

(a) every meeting of the FAC; and

(b) the Council meeting where the annual audit, including the annual financial statements, will be considered and approved.

(4) Subject to subsection (6), the auditor may attend any meeting for which they shall be given notice under this section or to which the auditor has been invited and shall be given the opportunity to be heard at those meetings on issues that concern the auditor as auditor of Wasauksing.

(5) The auditor may communicate with the FAC, as the auditor considers appropriate, to discuss any subject that the auditor recommends be considered by the FAC.

(6) The auditor may be excluded from all or any part of a meeting of the FAC or the Council by a recorded vote if the subject matter relates to the retaining or dismissal of the auditor.

#### **Review of Audited Annual Financial Statements**

70.(1) The audited annual financial statements shall be provided to the FAC for its review and consideration not more than one hundred and twenty (120) days after the fiscal year-end for which the statements were prepared.

(2) The Council shall review and approve the audited annual financial statements not more than one hundred and twenty (120) days after the end of the fiscal year for which the statements were prepared.

#### **Access to Annual Financial Statements**

71.(1) Before the audited annual financial statements referred to in subsection 68(1) may be published or distributed, they shall

(a) be approved by the Council;

(b) be signed by

(i) the Chief,

(ii) the Chair,

(iii) the chief executive director, and

(iv) the director of finance; and

(c) include the auditor's audit report of the annual financial statements and the auditor's opinion or review comments on the special purpose reports referred to in section 66.

(2) Where possible, the statements shall be presented and distributed to, and signed in the presence of, the citizens in attendance at a Council meeting.

(3) The audited annual financial statements referred to in subsection 64(1) shall be available for inspection by citizens at the principal administrative offices of Wasauksing during normal business hours.

(4) In accordance with subsection 14(2) of the Act,

(a) the audited annual financial statements respecting local revenues referred to in subsection 65(1), or

(b) the audited annual financial statements referred to in subsection 65(1) if those statements include a report on local revenues as a distinct segment of the activities that appear in those statements

shall be available for inspection at the principal administrative offices of Wasauksing during normal business hours by:

(c) citizens;

(d) any other persons who have an interest in, or the right to occupy, possess or use Wasauksing's lands;

(e) the FNTC, FMB and FNFA; and

(f) the Minister responsible for the department of Indigenous Affairs and Northern Development.

#### **Annual Report**

**72.(1)** Not later than one hundred and eighty (180) days after the end of each fiscal year, the Council shall prepare an annual report on the operations and financial performance of Wasauksing for the previous fiscal year, that includes the following:

(a) a description of the services and operations of Wasauksing;

(b) a progress report on any established financial objectives and performance measures of Wasauksing;

(c) the audited annual financial statements referred to in subsection 68(1) for the previous fiscal year; and

(d) any special purpose reports referred to in section 66, including the auditor's report or review engagement report, as applicable.

(2) The chief executive director shall ensure that the annual report referred to in subsection (1)

(a) is made available to citizens at the principal administrative offices of Wasauksing;

(b) is made available to the FMB as soon as practicable after the report's publication, if Wasauksing has a certificate issued by the FMB under subsection 50(3) of the Act; and

(c) to the FNFA as soon as practicable after the report's publication, if Wasauksing is a borrowing member.

(3) The chief executive director shall establish and maintain a register for the annual report that identifies all citizens who have requested a copy of the annual report, and includes:

(a) the date each request was received; and

(b) the date the annual report was provided or made available to the citizen.

(4) If a member requested a copy of the annual report and the chief executive director does not provide the annual report to the citizen in a timely manner, the citizen may apply to the Council to request a copy of the report.

(5) The chief executive director shall report quarterly to the FAC on the steps taken to ensure compliance with subsections (2) to (4).

## ***DIVISION 7 - Information and Information Technology***

### **Ownership of Records**

73.(1) All records that are produced by or on behalf of Wasauksing or kept, used or received by any person on behalf of Wasauksing are the property of Wasauksing.

(2) The Council shall establish policies or procedures or give directions to ensure that the records referred to in subsection (1) remain the property of Wasauksing.

### **Operations Manual**

74.(1) The chief executive director shall prepare and maintain a current operations manual respecting every element of Wasauksing's administrative systems, including any financial administration systems referred to in this Law.

(2) The operations manual under subsection (1) shall be made available to Councillors, members of the FAC and all other Council committees, and to directors and employees of Wasauksing, subject to reasonable exceptions for those parts of the manual that are appropriate only for limited distribution.

(3) If any part of the operations manual under subsection (1) is relevant to the services being provided by a contractor or agent of Wasauksing, that part of the operations manual shall be made available to the contractor or agent.

**Record Keeping and Maintenance**

75.(1) The chief executive director shall ensure that Wasauksing prepares, maintains, stores and keeps secure all of Wasauksing's records that are required under this Law or any other applicable law.

(2) Wasauksing's records may not be destroyed or disposed of except as permitted by, and in accordance with, the policies, procedures or directions of the Council.

(3) All financial records of Wasauksing shall be stored for at least seven (7) years after they were created.

(4) The Council shall establish policies and procedures or give directions respecting access of any persons to Wasauksing's records.

**Account Records**

76.(1) The tax administrator shall prepare, maintain, store and keep secure a complete set of all records respecting the local revenue system of Wasauksing, including all records referred to in section 5 of the *Revenue Management Implementation Regulations*.

(2) If Wasauksing has a loan from the FNFA that is secured by other revenues, the director of finance shall prepare, maintain, store and keep secure a complete set of all records respecting other revenues of Wasauksing, including all records referred to in section 5 of the *Revenue Management Implementation Regulations* as amended by the *Financing Secured by Other Revenues Regulations*.

**Confidentiality of Information**

77.(1) No person may be given access to Wasauksing's records containing confidential information except as permitted by, and in accordance with, the policies, procedures and directions of the Council.

(2) All persons who have access to Wasauksing's records shall comply with all policies, procedures or directions of the Council respecting the confidentiality, control, use, copying or release of that record or information contained in those records.

**Information Technology**

78. The Council shall establish policies or procedures or give directions respecting information technology used by Wasauksing in its operations to ensure the integrity of Wasauksing's financial administration system and its database.

**PART V - Capital Projects**

**Council General Duties**

79. The Council shall take reasonable steps to ensure that

(a) Wasauksing's tangible capital assets are maintained in a good and safe condition and to the same standard as a prudent owner of those assets;

- (b) the rehabilitation or replacement of Wasauksing's tangible capital assets is in accordance with a life-cycle management program described in this Part; and
- (c) capital projects for the construction of buildings or other improvements are financed, planned and constructed in accordance with procedures and to standards that generally apply to the financing, planning and construction of public buildings and other improvements of organized communities in Ontario.

**Tangible Capital Asset Reserve Fund**

**80.** The Council shall establish a tangible capital asset reserve fund for the purpose of funding expenditures for capital projects carried out under this Part.

**Reports on Capital Projects**

**81.** At each FAC meeting, the director of finance, chief executive director or director of public works shall report on the following subjects, as applicable:

- (a) year to date borrowings, loans and payments in respect of each capital project;
- (b) the status of a capital project, including
  - (i) a comparison of expenditures to date with the project budget,
  - (ii) a detailed description of any identified legal, financial, technical, scheduling or other problems, and
  - (iii) the manner in which a problem identified in subparagraph (ii) has been or shall be addressed; and
- (c) steps taken to ensure compliance with section 84 for every capital project.

**Life-Cycle Management Program**

**82.(1)** The director of finance shall establish and keep current a register of all Wasauksing's tangible capital assets that identifies each of these assets and includes the following information:

- (a) location and purpose of the asset;
- (b) ownership and restrictions over ownership of the asset;
- (c) year of acquisition;
- (d) last inspection date of the asset;
- (e) expected life of the asset at the time of acquisition;
- (f) assessment of condition of the asset and its remaining useful life;
- (g) estimated residual value of the asset;

- (h) insurance coverage for the asset; and
- (i) any other information required by the Council.

(2) On or before January 15 of each year, the director of public works shall arrange for the inspection and review of the state of each of Wasauksing's tangible capital assets to establish or update information respecting the following matters:

- (a) its present use;
- (b) its condition and state of repair;
- (c) its suitability for its present use;
- (d) its estimated remaining life;
- (e) its estimated replacement cost;
- (f) estimated dates and costs of its required future rehabilitation;
- (g) a comparison of annual operating and maintenance costs, other than rehabilitation costs, for the last five (5) fiscal years;
- (h) maintenance records for all periods up to the date of inspection; and
- (i) property and liability insurance covering the capital asset and its use or operation.

(3) On or before February 15 of each year, the director of finance and director of public works shall prepare the following:

- (a) a schedule of annual routine maintenance, other than rehabilitation, for each of Wasauksing's tangible capital assets for the next fiscal year;
- (b) short-, medium- and long-term forecasts of the estimated cost for rehabilitation or replacement of Wasauksing's tangible capital assets;
- (c) the proposed budget for rehabilitation of Wasauksing's tangible capital assets for the next fiscal year, setting out
  - (i) each proposed rehabilitation project and its schedule,
  - (ii) the estimated cost, including contingencies, of each proposed rehabilitation project, and
  - (iii) the estimated amounts and timing of money that is required to carry out each proposed rehabilitation project; and
- (d) the proposed budget for replacement of Wasauksing's tangible capital assets for the next fiscal year setting out
  - (i) each proposed replacement project and its schedule,

- (ii) the description of each asset to be replaced,
- (iii) the estimated cost, including contingencies, of each proposed replacement project, and
- (iv) the reasons why each proposed acquisition should be regarded as a replacement for the capital asset to be replaced.

**Review by FAC**

**83.(1)** On or before February 28 of each year, the FAC shall review the information, schedules and budget prepared under section 82 for the following purposes:

- (a) to identify any means to reduce the costs of each rehabilitation or replacement project included in the proposed budgets;
- (b) to know the effect that each rehabilitation or replacement project included in the proposed budgets will have on the annual operating costs and routine maintenance costs in future years; and
- (c) to determine whether any significant savings might be effected by coordinating the scheduling of projects, deferring any projects or carrying out rehabilitation projects rather than replacement projects.

(2) On or before February 28 of each year, the FAC shall review any plans for new construction of Wasauksing's tangible capital assets, including the proposed schedule, budget and impact on annual operating costs and routine maintenance costs in future years.

**Capital Projects – Contracts and Tenders**

**84.(1)** The Council shall establish policies or procedures or give directions respecting the management of capital projects, including the following:

- (a) project planning, design, engineering, safety and environmental requirements;
- (b) project costing, budgeting, financing and approval;
- (c) project and contractor bidding requirements;
- (d) tender, contract form and contract acceptance;
- (e) course of construction insurance;
- (f) project performance guarantees and bonding;
- (g) project control, including contract management; and
- (h) holdbacks, work approvals, payment and audit procedures.

(2) All Wasauksing capital projects shall be managed in accordance with the policies, procedures or directions referred to in subsection (1).



**Capital Project Consultants**

85. The chief executive director may retain the services of a professional engineer or other consultant to assist the chief executive director, director of finance, director of public works, FAC and the Council to carry out their obligations under this Part.

**PART VI - Miscellaneous**

**FMB Standards**

86. If Wasauksing is a borrowing member or has a certificate issued by the FMB under subsection 50(3) of the Act, then

- (a) Wasauksing shall comply with all the applicable FMB standards; and
- (b) if the Council becomes aware that Wasauksing is not complying with a FMB standard referred to in paragraph (a), the Council shall as soon as practicable take the required actions to bring Wasauksing into compliance with the FMB standard.

**Delegated Authority on Intervention**

87.(1) Without limiting section 53 of the Act, if

- (a) Wasauksing is
  - (i) making local revenue laws under subsection 5(1) of the Act, or
  - (ii) using its local revenues to secure a loan from the FNFA, and
- (b) the FMB gives notice to Wasauksing under section 53 of the Act that third-party management of Wasauksing's local revenues is required, the Council delegates to the FMB
  - (i) the powers and authorities described in subsection 53(2) of the Act, and
  - (ii) any other of the Council's powers required to give effect to third-party management of Wasauksing's local revenues and local revenue account under the Act.

(2) Without limiting section 53 of the Act as adapted by the *Financing Secured by Other Revenues Regulations*, if

- (a) Wasauksing is using its other revenues to secure a loan from the FNFA, and
- (b) the FMB gives notice to Wasauksing under section 53 of the Act that third-party management of Wasauksing's other revenues is required, the Council delegates to the FMB
  - (i) the powers and authorities described in subsection 53(2) of the Act as adapted by the *Financing Secured by Other Revenues Regulations*, and

- (ii) any other of the Council's powers required to give effect to third-party management of Wasauksing's other revenues under the Act.

**Land Management Obligations**

**88.** If Wasauksing has a Land Code, then

- (a) Wasauksing shall comply with the *First Nations Land Management Act* and the Land Code; and
- (b) the Council shall establish and implement a policy that provides a method consistent with the requirements of the Land Code for being accountable to citizens for the management of Wasauksing's lands and for moneys earned from those lands to satisfy paragraph 6(1)(e) of the *First Nations Land Management Act*.

**Reports of Breaches and Financial Irregularities**

**89.(1)** Subject to subsections (2) and (3), if any person has reason to believe that

- (a) an expenditure, liability or other transaction of Wasauksing is not authorized by or under this Law or another Wasauksing law,
- (b) there has been a theft, misappropriation or other misuse or irregularity in the funds, accounts, assets, liabilities and financial obligations of Wasauksing,
- (c) a provision of this Law has been contravened, or
- (d) a person has failed to comply with the COIP,

the person may disclose the circumstances to the Chair, the Chief or the chief executive director.

(2) If a Councillor becomes aware of any circumstances described under subsection (1), the Councillor shall report them to the Chair, the Chief or the chief executive director.

(3) If a director, employee, contractor or agent of Wasauksing becomes aware of any circumstances described under subsection (1), the director, employee, contractor or agent, as the case may be, shall report them to the Chair, the Chief or the chief executive director.

**Inquiry into Report**

**90.(1)** If a report is made under section 89, the Chair, Chief or chief executive director shall inquire into the circumstances reported and report the findings to the FAC as soon as practicable.

(2) The FAC may make a further inquiry into any findings reported to it under this section but, in any event, shall make a report to the Council respecting any circumstances reported to the FAC under this section, including the FAC's recommendations, if any.

**Protection of Parties**

91.(1) All reasonable steps shall be taken by the chief executive director, the members of the FAC and the Councillors to ensure that the identity of the person who makes a report under section 89 is kept confidential to the extent practicable in all the circumstances.

(2) A person who makes a report in good faith under section 89 shall not be subjected to any form of reprisal by Wasauksing or by a Councillor, director, employee, contractor or agent of Wasauksing as a result of making that report.

(3) The chief executive director and the Chair shall take all necessary steps to ensure that subsection (2) is not contravened and shall report any contravention or suspected contravention to the Council.

(4) If a person makes a report under section 89 that is frivolous or vexatious, Wasauksing may take the following actions:

- (a) a director or employee may be disciplined, including dismissal;
- (b) a contractor's contract may be terminated;
- (c) the appointment of a member of a committee may be revoked;
- (d) the appointment of an agent may be revoked; and
- (e) Wasauksing may use any legal means available to it to remedy the situation.

(5) The Council shall establish policies or procedures or give directions

- (a) for the recording and safeguarding of reports made under section 89 and any records prepared during the inquiry or investigation into those reports;
- (b) for the inquiry or investigation into reports made under section 89; and
- (c) concerning the fair treatment of a person against whom a report has been made under section 89.

**Liability for Improper Use of Money**

92.(1) A Councillor who votes for a resolution authorizing an amount to be expended, invested or used contrary to this Law or Wasauksing's local revenue law is personally liable to Wasauksing for that amount.

(2) Subsection (1) does not apply if the Councillor relied on information provided by a director or employee of Wasauksing and the director or employee was guilty of dishonesty, gross negligence or malicious or willful misconduct when providing the information.

(3) An amount owed to Wasauksing under subsection (1) may be recovered for Wasauksing by Wasauksing, a citizen or a person who holds a security under a borrowing made by Wasauksing.

*Wasauksing First Nation FAL, 2018*

(4) It is a good defence to any action brought against a director or employee of Wasauksing for unauthorized expenditure, investment or use of Wasauksing's financial assets if it is proved that the director or employee gave a written and signed warning to the Council that in his or her opinion, the expenditure, investment or use would be unlawful.

**Indemnification against Proceedings**

93.(1) Subject to subsection (2), the Council may by resolution indemnify or provide for the indemnification of a named Wasauksing official, a category of Wasauksing official or all Wasauksing officials in accordance with the terms specified in the resolution.

(2) The Council may not pay a fine that is imposed as a result of a Wasauksing official's conviction for an offence unless the offence is a strict or absolute liability offence.

**Periodic Review and Changes of Law**

94.(1) At least every second year, at the beginning of the fiscal year, and additionally as necessary, the FAC shall conduct a review of this Law

- (a) to determine if it facilitates effective and sound financial administration of Wasauksing; and
- (b) to identify any amendments to this Law that may better serve this objective.

(2) If Wasauksing is a borrowing member, it may only repeal this Law if it replaces it at the same time with another financial administration law which has been reviewed by the FMB and issued a compliance approval under section 9 of the Act.

(3) Any amendment of this Law shall be reviewed by the FMB and issued a compliance approval under section 9 of the Act.

**Provision of Law to FNFA**

95. If Wasauksing intends to apply to become a borrowing member, the Council shall provide a copy of this Law to the FNFA as soon as practicable after the FMB approves the Law.

**Repeal**

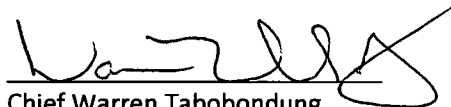
96. The *Wasauksing FAL, 2012* is hereby repealed in its entirety.

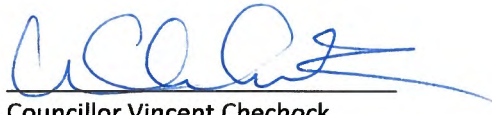
**Coming into Force**

97. This Law comes into force on the day after the date on which it is approved by the FMB.

**THIS LAW IS HEREBY DULY ENACTED** by the Council on the ~~5<sup>th</sup>~~<sup>6<sup>th</sup></sup> day of ~~December, 2017~~<sup>March, 2018</sup>, at Wasauksing, in the Province of Ontario.

A quorum of Council consists of four (4) members of the Council.

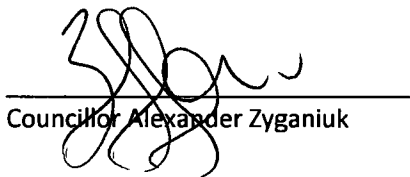
  
Chief Warren Tabobandung

  
Councillor Vincent Chechock

  
Councillor Theresa McInnes

\_\_\_\_\_  
Councillor David Martin Rice

\_\_\_\_\_  
Councillor Brent Tabobandung

  
Councillor Alexander Zygniuk