

*Wasauksing First Nation Financial Administration Law, 2012*  
Approved by the Council on July 31, 2012

# **WASAUKSING FIRST NATION**

## **FINANCIAL ADMINISTRATION LAW, 2012**

**July 31, 2012**

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WHEREAS:

A. Pursuant to section 9 of the *First Nations Fiscal and Statistical 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, 2012*.

## **PART II - Interpretation and Application**

### **Definitions**

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

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

"annual financial statements" means the annual financial statements of Wasauksing referred to in Division 6 of Part IV – Financial Management;

"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 60;

"budget" means the annual budget of Wasauksing that has been approved by the Council;

"COIP" means the Wasauksing First Nation Conflict of Interest Policy;

"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 16;

"citizen" means a member of Wasauksing;

"community Council meeting" means the Council meeting held each month, which is open to citizens;

"Council" means the Council of Wasauksing;

“Councillor” means a member of the Council of Wasauksing;

“dependent child” means, in relation to an individual, a child who

(a) has not reached the age of 18 years, or

(b) has reached the age of 18 years, but is primarily dependent for financial support on the individual or the spouse of the individual;

“director” means the chief executive director, director of finance, tax administrator 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 17;

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

“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;

“family member” means, in relation to an individual, that person’s spouse, dependent children, or dependent children of the spouse;

“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, or credit union;

“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 22;

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

“indemnify” means to 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);

"independence" means, in relation to a member of the FAC, that the individual does not have a direct or indirect relationship with Wasauksing that could, in the opinion of the Council, reasonably interfere with the individual's exercise of independent judgment as a member of the FAC;

"Land Code" means a 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 75;

"local revenue account" means the local revenue account referred to in section 13 of the Act;

"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 23;

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

"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 interest or that is controlled by Wasauksing,

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

(d) a trust of Wasauksing;

"replacement" includes substitution, in whole or in part, with another of Wasauksing's tangible capital assets;

"special purpose report" means a report described in subsection 59(4);

“spouse” means, in relation to an individual, a person to whom the individual is married or with whom the individual has lived as a common law partner for at least one (1) year in a marriage-like relationship;

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

“tax administrator” means the tax administrator appointed 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 on 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) Except as otherwise provided in this Law, 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 posted if a written notice is placed on Wasauksing's website or in the Wasauksing newsletter.

(2) Unless expressly provided otherwise, if a public notice of a meeting is required under this Law, the notice shall be posted at least fifteen (15) business days before the date of the meeting.

### **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.

(3) If there is a conflict between this Law and a local revenue law, the local revenue law prevails.

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

##### **Council Policies, Procedures and Directions**

9.(1) 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.
- (7) All directions given by the Council under this Law shall be made by Band Council Resolution, or a motion of the Council that is approved by a quorum and recorded in the minutes.

#### **Reporting of Remuneration, Expenses and Contracts**

**10.(1)** Annually the director of finance shall prepare a report separately listing the following:

- (a) the total amount of remuneration, expenses and benefits, paid or provided by Wasauksing to a Councillor and to each of the family members of the Councillor;
- (b) any contracts between Wasauksing and a Councillor and between Wasauksing and a family member of the Councillor for the supply of goods or services, including a general description of the nature of the contracts;
- (c) the total amount of remuneration, expenses and benefits, paid or provided by Wasauksing to the chief executive director and to each of the family members of the chief executive director; and
- (d) any contracts between Wasauksing and the chief executive director and between Wasauksing and a family member of the chief executive director for the supply of goods or services, including a general description of the nature of the contracts.

- (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 Council with advice and recommendations in order to support 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 have independence.
  - (3) The Council shall establish policies or procedures or give directions
    - (a) specifying that the independence of each member of the FAC be tracked, including the annual documented confirmation by each member of their independence;
    - (b) ensuring that all members of the FAC have independence including specifying that the following individuals do not have independence:
      - (i) an individual who is an employee of Wasauksing,
      - (ii) an individual whose family member is a director of Wasauksing, and
      - (iii) an individual who has a direct or indirect relationship with Wasauksing by which the individual may accept any consulting, advisory, or other compensatory fee paid by Wasauksing to the individual (other than remuneration paid for acting in their capacity as a Councillor or as a member of any committee or as fixed retirement compensation), to a family member of the individual or to an entity in which the individual is a partner, owner, member or director and which provides accounting, consulting, legal or any financial services to Wasauksing or to a related body of Wasauksing.
  - (4) At least two (2) of the FAC members shall be Councillors.
  - (5) Subject to subsection (6), 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 will 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 must 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.

(6) A FAC member may be replaced by the Council if

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

(b) the Chair or Vice-Chair recommends replacement on reasonable grounds.

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

**12.** The Council shall appoint a Chair and a Vice-Chair of the FAC, both of whom shall be Councillors.

#### **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 tiebreaking 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 three (3) months in each fiscal year and additionally as necessary to conduct the business of the FAC or as required under this Law; 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 subject to the approval of 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 develop, and recommend to the Council for approval, financial and strategic plans, projections and priorities;
- (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 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 local revenue account financial statements 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 86 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.

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

#### **Chief Executive Director**

**16.(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 directors and 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 19;
- (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**

17.(1) The Council 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 the accounts of Wasauksing, other than the local revenue account;

(c) preparing the draft annual budgets;

(d) consulting with the tax administrator on any draft amendments to the component of the annual budget respecting Wasauksing's local revenue account;

(e) preparing the monthly financial information required in section 57, the quarterly financial statements required in section 58 and the draft annual financial statements required in section 59;

(f) preparing the financial components of reports to the Council and of any plans, projections and priorities referred to in subsection 14(1);

(g) actively monitoring compliance with any agreements and funding arrangements entered into by Wasauksing;

(h) administering and supervising the preparation and maintenance of financial records and the financial administration reporting systems;

(i) administering and supervising the maintenance of the records of all receipts and expenditures of Wasauksing to facilitate the annual audit;

(j) 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, other than those matters that are the responsibility of the tax administrator under this Law, another Wasauksing law or the Act;

- (k) preparing or providing any documentation and financial information required by the Council or the FAC to discharge its responsibilities;
- (l) evaluating the financial administration systems of Wasauksing and recommending improvements;
- (m) developing and recommending procedures for the safeguarding of assets and ensuring approved procedures are followed;
- (n) developing and recommending procedures for identifying and mitigating financial reporting and fraud risks and ensuring approved procedures are followed;
- (o) performing any other duties of the director of finance under this Law;
- (p) performing the duties and assuming the responsibilities of the tax administrator, in the event that the Council has not appointed a tax administrator; and
- (q) 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 specified in 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**

**18.(1)** The tax administrator reports to the chief executive director in respect of the performance of any of the tax administrator's duties or functions under this Law, and is responsible for the day-to-day management of Wasauksing's property taxation department including the following duties:

- (a) administering and maintaining Wasauksing's local revenue account; and
- (b) preparing, in consultation with the director of finance, any draft amendments to the component of the annual budget respecting Wasauksing's local revenue account.

(2) 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 under this Law 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**

**19.(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 Council, FAC and all other committees of the Council,
    - (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 the responsibility between the Council, the FAC and the directors referred to in subparagraph (ii).
- (2) The organization chart under subsection (1) shall be posted in a public place at the Wasauksing administration office.
- (3) 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.
- (4) 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.
- (5) 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**

- 20.(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 disclosures of private interests; and



(e) annually disclose relevant information respecting their private interests which could result in a conflict of interest.

(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 paragraph 11(6)(b), if applicable;

(b) Wasauksing may use any legal means available to it 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, Contractors, and Agents**

21.(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) Any person who is exercising a power, duty or responsibility relating to the financial administration of Wasauksing 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 all 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 possible any circumstances which 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), 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.

## **PART IV - Financial Management**

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

#### **Fiscal Year**

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

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

23. 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) in respect of projected revenues, sets out separate amounts for income from taxes, fees and charges, transfers from Canada or a provincial or territorial government, grants and business operations, and proceeds from borrowing;
- (d) in respect of projected expenditures, sets out separate amounts for payments, including payments of principal and interest on debt, payments required for capital projects as defined in Part V - Capital Projects, payments required to address any deficits and payments for all other purposes;
- (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**

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

(a) each anticipated source of revenue and estimate the amount of revenue from each of these sources, including taxes, fees and charges, transfers from Canada or a provincial or territorial government, grants and business operations, and proceeds from borrowing;

(b) each anticipated category of expenditure and estimate the amount of expenditure for each category, including those for payments of principal and interest on debt, payments required for capital projects as defined in Part V - Capital Projects, payments required to address any deficits and payments for all other purposes; 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.

#### **Budget and Planning Process Schedule**

25.(1) On or before January 31 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 February 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) On or before June 15 of each year, the director of finance and the tax administrator shall prepare and submit to the FAC for review a draft amendment of the component of the annual budget respecting Wasauksing's local revenue account.

(5) 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 revenue account and recommend an amendment to the annual budget to the Council for approval.

(6) 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 revenue account.

#### **Additional Requirements for Budget Deficits**

26. If a draft annual budget contains a proposed deficit, the Council shall ensure that

(a) the multi-year financial plan of Wasauksing demonstrates how and when this deficit will be addressed and how it will be serviced; and

(b) the deficit does not have a negative impact on the credit worthiness of Wasauksing.

### **Amendments to Annual Budgets**

27.(1) The annual budget of Wasauksing shall not be changed without the approval of the Council.

(2) Subject to subsection 25(6), and Council policies or procedures regarding emergency expenditures, unless there is a substantial change in the forecasted revenues or expenses of Wasauksing or in the expenditure priorities of the Council, the Council shall not approve a change to the annual budget of Wasauksing.

### **Local Revenue Account Budget Requirements**

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

### **Policy for Wasauksing Information or Involvement**

29.(1) The Council shall consider the following matters at a community Council meeting:

- (a) the annual budget, including any component of the annual budget respecting Wasauksing's local revenue account;
- (b) an amendment to the annual budget;
- (c) the multi-year financial plan;
- (d) budget deficits or extraordinary expenditures;
- (e) capital projects;
- (f) borrowing for capital projects; and
- (g) proposed amendments to this Law.

(2) Notice of a community Council meeting under subsection (1) shall be set out in the Wasauksing newsletter, at least one week in advance of the meeting.

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

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

### **Financial Institution Accounts**

30.(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 as 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 73.
- (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**

- 31.(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
    - (a) shall deposit all money received by Wasauksing as soon as practicable into the appropriate accounts described in section 30; and
    - (b) shall not authorize payment of money from an account described in section 30 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**

- 32.(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 permitted under a local revenue law.
  - (3) Money in a tangible capital asset reserve account shall not be used for any purpose other than that described in Part V - Capital Projects.

**Prohibited Agreements**

- 33.** 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.

### **Appropriations**

34.(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.

### **Payments after Fiscal Year-end**

35.(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**

36.(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.

#### **Form of Payment**

37. Payments by Wasauksing may be made by cheque, draft, electronic transfer or other similar instrument signed or authorized by any two (2) Councillors.

#### **Cash Management**

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

### ***DIVISION 4 - Borrowing***

#### **Limitations on Borrowing**

39.(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**

40.(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 will 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 required for the operation, management or administration of Wasauksing.

#### **Financial Agreements**

41. At the direction of the Council, the director of finance may enter into agreements on behalf 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**

42.(1) If the general account described in paragraph 30(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**

43. If Wasauksing becomes a borrowing member, then

- (a) it shall not obtain long-term financing secured by property tax revenues from any person other than the FNFA;
- (b) it may only obtain long-term financing referred to in paragraph (a) as permitted under its local revenue law and the Act; and
- (c) it may only use money borrowed under this section for the purposes permitted under the Act.

#### **Borrowing for Repayment of Debts**

44. 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 42(1), if it will result in a lower interest rate, or more favourable terms, for Wasauksing.

#### **Use of Borrowed Money**

45.(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 51(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**

46.(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**

47. 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**

48.(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**

49.(1) The Council shall not authorize 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 85;

(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 85, 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.

### **Authority to Invest**

50.(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**

51.(1) Money in an account described in section 30 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 class of investments permitted under an Act 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 30, 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; or
- (c) a limited partnership in which Wasauksing is a partner.

(4) Despite any other provision in this section, government transfer funds and local revenue funds may only be invested

- (a) securities issued or guaranteed by Canada or a province;
- (b) securities of a local, municipal or regional government in Canada;
- (c) investments guaranteed by a bank, trust company or credit union;
- (d) deposits in a bank or trust company in Canada or non-equity or membership shares in a credit union; or
- (e) securities issued by the FNFA.

#### **No Loans to Third Parties**

**52.** 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**

**53.** 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**

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

(2) Annually, and more often if necessary, the chief executive director 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**

55.(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 54 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 or a director or their personal representatives against any liability arising from that person being or having been a Councillor or a director.

***DIVISION 6 - Financial Reporting***

**GAAP**

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

**Monthly Financial Information**

57. 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 financial information respecting the financial affairs of Wasauksing in the form and with the content approved by the Council on the recommendation of the FAC.

**Quarterly Financial Statements**

58.(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 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 within ten (10) days of receipt; and
  - (b) reviewed and approved by the Council at the next scheduled Council meeting.

### **Annual Financial Statements**

59.(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 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 FAC shall present draft annual financial statements to the Council for review within sixty (60) days following the end of the fiscal year for which they were prepared.

(3) 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 24(2).

(4) The annual financial statements shall include 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) if Wasauksing has a Land Code in force, a report setting out moneys of Wasauksing derived from Wasauksing lands, categorized and shown separately from other revenues and that includes a sub-category respecting revenues from natural resources obtained from Wasauksing lands; and
- (e) any other report required under the Act or an agreement.

### **Appointment of Auditor**

60.(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 to confirm that the annual financial statements and the audit of them comply with this Law, the Act, and FMB standards.

(3) To be eligible for appointment as the auditor of Wasauksing, an auditor shall

(a) be independent of Wasauksing, its related bodies, Councillors and directors and citizens; and

(b) be a public accounting firm or public accountant

(i) in good standing with 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 the province or territory in which the majority of the reserve lands of Wasauksing are located.

(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**

**61.(1)** The annual financial statements of Wasauksing shall be audited by the auditor.

(2) The auditor shall conduct the audit of the annual financial statements in accordance with generally accepted auditing standards established by the Canadian Institute of Chartered Accountants.

(3) The auditor shall conduct that part of the annual financial statements respecting the local revenue account in accordance with FMB standards for the audit of local revenue accounts and shall report on that account separately from other accounts.

(4) 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 subsection 59(4).

#### **Auditor's Authority**

**62.(1)** To conduct an audit of the annual financial statements of Wasauksing, the auditor shall be given

(a) access to all records of Wasauksing for examination or inspection, and copies of these records on request; and

(b) access to 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**

63.(1) The audited annual financial statements shall be provided to the FAC for its review and consideration not more than one hundred (100) 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 fiscal year-end for which the statements were prepared.

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

64.(1) Before the annual financial statements may be published, 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 audit opinion or review comments of the special purpose reports referred to in subsection 59(4).
- (2) Where possible, the statements shall be presented and distributed to, and signed in the presence of, the citizens in attendance at a community Council meeting.
- (3) The audited annual financial statements and special purpose reports shall be available for inspection by citizens at the principal administrative offices of Wasauksing during normal business hours.
- (4) The audit report relating to the local revenue account shall be available for inspection by
  - (a) citizens;
  - (b) any other persons who have an interest in, or the right to occupy, possess or use Wasauksing's lands;
  - (c) the FNTC, FMB and FNFA; and
  - (d) the Minister,at the principal administrative offices of Wasauksing during normal business hours.

#### **Annual Report**

- 65.(1) Not later than one hundred and twenty (120) 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.
- (2) The annual report referred to in subsection (1) shall include 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; and
    - (c) the audited annual financial statements of Wasauksing for the previous fiscal year, including special purpose reports.
  - (3) The annual report referred to in subsection (1) shall
    - (a) be made available to the citizens at the principal administrative offices of Wasauksing; and
    - (b) be provided to the FMB and the FNFA.



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

### **Ownership of Records**

66.(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**

67.(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 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**

68.(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 and in accordance with the policies, procedures or directions of the Council.

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

### **Local Revenue Account Records**

69. 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 *Local Revenue Management Implementation Regulations*.

### **Confidentiality of Information**

70.(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**

**71.** 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**

**72.** 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 the region in which the majority of Wasauksing's lands are located.

### **Tangible Capital Assets Reserve Fund**

**73.** 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**

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

(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 will be addressed; and

(c) steps taken to ensure compliance with section 77 for every capital project.

**Life-cycle Management Program**

75.(1) The chief executive director 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, as applicable:

- (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 chief executive director 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, as applicable:

- (a) its present use;
- (b) its condition, state of repair, and maintenance records ;
- (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; and
- (h) property and liability insurance covering the capital asset and its use or operation.

(3) On or before February 15 of each year, the chief executive director or 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- 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**

76.(1) On or before February 28 of each year, the FAC shall review the information, schedules and budget prepared under section 75 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**

77.(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**

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

### **PART VI - Borrowing Member Requirements**

#### **Compliance with Standards**

- 79.** If Wasauksing becomes a borrowing member as defined in 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 an 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.

### **PART VII - Land Management**

#### **Obligations**

- 80.** 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*.

## **PART VIII - Miscellaneous**

### **Reports of Breaches and Financial Irregularities, etc.**

**81.(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**

**82.(1)** If a report is made under section 81, the Chair, the Chief or the chief executive director, as applicable, 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**

**83.(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 81 is kept confidential to the extent practicable in all the circumstances.

(2) A person who makes a report in good faith under section 81 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 81 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 81 and any records prepared during the inquiry or investigation into those reports;
- (b) for the inquiry or investigation into reports made under section 81; and
- (c) concerning the fair treatment of a person against whom a report has been made under section 81.

#### **Liability for Improper Use of Money**

**84.(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.

(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 their opinion, the expenditure, investment or use would be unlawful.

#### **Indemnification against Proceedings**

**85.(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 of Law**

**86.** 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.

**Provision of Law to FNFA**

**87.** As soon as practical after the FMB approves this Law, the Council shall provide a copy of this Law to the FNFA.

**Coming into Force**

**88.** (1) The following sections of this Law come into force on the day after the Law is approved by the FMB under section 9 of the Act:

- (a) sections 1-7;
- (b) section 22;
- (c) sections 24-28;
- (d) sections 56-65;
- (e) section 69; and
- (f) section 88.

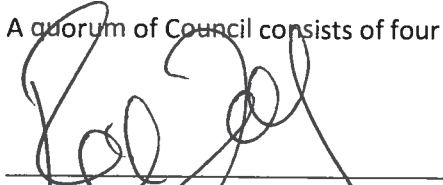
(2) Section 48 comes into force on the earlier of April 1, 2014 or the day it is brought into force by Band Council Resolution.



(3) The remaining sections of this Law come into force on the earlier of April 1, 2013 or the day they are brought into force by Band Council Resolution.


**THIS LAW IS HEREBY DULY ENACTED** by the Council on the 31<sup>st</sup> day of July, 2012, at Wasauksing, in the Province of Ontario.

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



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Chief Robert Tabobandung Sr.



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Chief Councillor John Beaucage



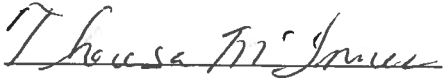
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Chief Councillor Brent Tabobandung



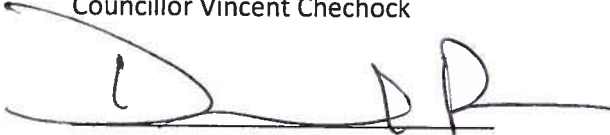
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Councillor Vincent Chechock



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Councillor Theresa McInnes



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Councillor David Rice