

WASUKSING FIRST NATION EMERGENCY RESPONSE LAW

WHEREAS the Wasauksing First Nation has an inherent right to self-government which emanates from the culture, language and land of our people, and which is recognized and affirmed by section 35 of the *Constitution Act, 1982* and the *United Nations Declaration on the Rights of Indigenous Peoples*;

WHEREAS the Wasauksing First Nation has taken control of its reserve lands and resources pursuant to the *Framework Agreement on First Nation Land Management* (the “Framework Agreement”), and has enacted the *Wasauksing First Nation Land Code*, which came into force and effect on June 1, 2017 (the “Land Code”);

WHEREAS the authority of Wasauksing First Nation to govern flows from the Creator to the people of Wasauksing First Nation, and from the people to Council according to the culture, traditions, customs and laws of Wasauksing First Nation;

WHEREAS pursuant to section 7.1 of the Land Code, Council may make laws respecting “the development, conservation, protection, management, use and possession of Wasauksing First Nation Land”, and any matter necessary or ancillary to the making of those laws;

WHEREAS pursuant to section 11 of the *Wasauksing First Nation Constitution*, the Wasauksing First Nation Council has the authority to develop, pass and implement laws, regulations, codes and policies that support good governance for the Citizens of Wasauksing First Nation;

WHEREAS pursuant to paragraphs 81(1)(a), (c), (d), (p.1), (p) and (q) of the *Indian Act*, R.S.C. 1985, c. 1-5, Council may make by-laws for the following purposes: “to provide for the health of residents on the reserve and to prevent the spreading of contagious and infectious diseases”, “the observance of law and order”, “the prevention of disorderly conduct and nuisances”, “the residence of band members and other persons on the reserve” and “the removal and punishment of persons trespassing on the reserve or frequenting the reserve for prohibited purposes”, and “with respect to any matter arising out of or ancillary to the exercise of powers under this section”, respectively;

AND WHEREAS Chief and Council of the Wasauksing First Nation requires the ability to respond to serious emergencies on Wasauksing Lands in a timely and efficient manner, as necessary to protect the health, safety and security of Wasauksing First Nation and its Citizens and residents,

NOW THEREFORE the Chief and Council of the Wasauksing First Nation hereby enact the following Law.

1.0 Interpretation

1.1 In this Law, the following definitions apply:

“Citizen” means a person who belongs to the Wasauksing First Nation and whose name appears on the Wasauksing First Nation Citizenship List in accordance with the *Wasauksing (Parry Island) Citizenship Code*;

“Constitution” means the *Wasauksing First Nation Constitution*, which was signed into law on behalf of the Wasauksing First Nation Citizens on January 24, 2017;

“Council” means the elected Chief and Council of Wasauksing First Nation;

“Land Code” means the *Wasauksing First Nation Land Code*, which came into force and effect on June 1, 2017;

“Resolution” means a band council resolution enacted by Council; and

“State of Emergency” means an urgent situation that is caused by a real or imminent

- (a) disease or illness in humans, animals or plants,
- (b) fire, flood, drought, storm, earthquake or other natural phenomenon, or
- (c) accident, environmental hazard or pollution,

and that results or may result in a danger to life or property, social disruption or a breakdown in the flow of essential goods, services or resources, so serious as to be an emergency for Wasauksing First Nation, its Citizens and residents; and

“Wasauksing Lands” means those lands set apart for the use and benefit of Citizens.

1.2 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”;
- (e) the headings given to the sections and paragraphs in this Law are for convenience of

reference only, and do not form part of this Law; and

- (f) a reference to an enactment or a policy includes any amendment or replacement of it and every regulation made under it.

1.3 Except as otherwise provided, words and expressions used in this Law have the same meaning as in the Land Code.

1.4 For greater certainty, nothing in this Law shall be construed so as to abrogate or derogate from any existing aboriginal or treaty rights of Wasauksing First Nation under section 35(1) of the *Constitution Act, 1982*, or their rights under the *United Nations Declaration on the Rights of Indigenous Peoples*.

2.0 Declaration of State of Emergency

2.1 When Council believes, on reasonable grounds, that a State of Emergency exists and requires the taking of special temporary measures for dealing with the State of Emergency, Council, may, by Resolution, declare a State of Emergency.

2.2 A declaration of a State of Emergency shall include:

- (a) a brief summary of the nature of the State of Emergency;
- (b) the special temporary measures that Council anticipates may be necessary for dealing with the State of Emergency;
- (c) the designation of one or more individuals who, in addition to Council, may make orders and regulations in accordance with article 3.0, if necessary; and
- (d) if the direct effects of the State of Emergency do not extend to the whole of Wasauksing Lands, the area or areas of Wasauksing Lands to which the direct effects of the State of Emergency extend.

2.3 A declaration of a State of Emergency is effective on the day on which it is issued.

2.4 A declaration of a State of Emergency expires at the end of 90 days unless the declaration is previously revoked, continued or renewed by Council.

3.0 Emergency Orders

3.1 While a declaration of a State of Emergency is in effect, Council and any person designated by Council in accordance with paragraph 2.2(c) may make such orders with respect to the following matters as they believe, on reasonable grounds, are necessary for dealing with the State of Emergency:

- (a) the regulation or prohibition of travel to, from or within Wasauksing Lands or any specified area within Wasauksing Lands, where necessary for the protection of the health, safety or protection of Citizens or other persons;
- (b) closing, or imposing restrictions on the operation of, any place, whether public or private, including any business, office, school, hospital or other establishment or institution;
- (c) establishing facilities for the care, welfare, safety and shelter of individuals, including emergency shelters and hospitals;
- (d) the evacuation of persons and animals and the removal of personal property from any specified area and the making of arrangements for the adequate care and protection of the persons, animals and property;
- (e) the requisition, use or disposition of property;
- (f) the authorization of or direction to any person, or any person of a class of persons, to render essential services of a type that the person, or a person of that class, is competent to provide and the provision of reasonable compensation in respect of services so rendered;
- (g) the regulation of the distribution and availability of essential goods, services and resources;
- (h) the authorization and making of emergency payments;
- (i) the assessment of damage to any works or undertakings and the repair, replacement or restoration of those works or undertakings;
- (j) the assessment of damage to the environment and the elimination or alleviation of the damage; and
- (k) the conduct of business and making of Resolutions by Council without the requirement for a duly convened, in-person Council meeting.

3.2 Where a declaration of a State of Emergency specifies that the direct effects of the emergency extend only to a specified area of Wasauksing Lands, the power under section 3.1 to make orders and regulations, and any powers, duties or functions conferred or imposed by or pursuant to any such order or regulation, may be exercised or performed only with respect to that area.

4.0 Offences and Penalties

4.1 Any person who:

- (a) violates any of the provisions of this Law;
- (b) violates any term or provision of an order or regulation made in accordance with this Law;
- (c) suffers or permits any act or thing to be done in contravention or in violation of this Law or an order or regulation made in accordance with this Law; or
- (d) neglects to do or refrains from doing any act or thing required by this Law or an order or regulation made in accordance with this Law,

is guilty of an offence under this Law and is liable to the penalties imposed by this Law and by any ticketing and enforcement laws of the Wasauksing First Nation.

4.2 Any person who is guilty of an offence under this Law is liable, on summary conviction, to a fine of not more than \$5000 or to a term of imprisonment not exceeding 30 days, or both.

4.3 The summary conviction procedures of Part XXVII of the *Criminal Code* apply to offences under this Law.

4.4 Each day a violation of this Law continues will be deemed to be a separate offence for which a fine or imprisonment may be imposed.

5.0 Immunity

5.1 No action for damages lies or may be instituted against present or past Council, or members, employees, servants or agents of either Wasauksing First Nation or Council:

- (a) for anything said or done or omitted to be said or done by that person in the performance or intended performance of the person's duty or the exercise of the person's authority in accordance with this Law; or
- (b) for any alleged neglect or default in the performance or intended performance of the person's duty or the exercise of the person's authority in accordance with this Law.

5.2 Wasauksing First Nation, present or past Council, or members, employees, servants or agents of any of Wasauksing First Nation or Council is not liable for any damages or other loss, including economic loss, sustained by any person, or to the property of any

person, as a result of neglect or failure, for any reason, to discover or detect any contravention, or from the neglect or failure, for any reason or in any manner, to enforce this Law or any Resolution, order or regulation made in accordance with this Law.

5.3 All actions against Wasauksing First Nation for the unlawful doing of anything that:

- (a) is purported to have been done by Wasauksing First Nation under the powers conferred by this Law; or
- (b) might have been lawfully done by Wasauksing First Nation if acting in the manner established by this Law,

may be commenced within six months after the cause of action first arose, but not afterwards.

5.4 Wasauksing First Nation is in no case liable for damages unless notice in writing, setting out the time, place and manner in which the damage has been sustained, is delivered to Wasauksing First Nation, within two months from the date on which the damage was sustained.

6.0 Enactment

6.1 This Law is enacted in accordance with sections 14-19 of the Constitution.

7.0 Severability

7.1 If any part of this Law is determined by the Courts to be invalid for any reason the provision shall be severed from the Law and shall not affect the validity of the remaining provisions of the Law.

8.0 Coming into Force

8.1 This Law shall come into force and effect on the date that it is enacted by Council.

THIS LAW IS HEREBY made at the duly convened meeting of the Chief and Council of the Wasauksing First Nation this _____ day of _____, 2020.

Chief Warren Tabobandung

Councillor Vincent Chechock

Councillor Theresa McInnes

Councillor David Rice

Councillor Brent Tabobandung

Councillor Rebeka Tabobandung