

# WASOQOPA'Q FIRST NATION DISORDERLY CONDUCT AND NUISANCES LAW

Approved: November 21, 2023

**WHEREAS** the Council of Wasoqopa'q (Acadia) First Nation deems it advisable and in the best interests of the First Nation to enact a law for the prevention of disorderly conduct and nuisances within Wasoqopa'q (Acadia) Lands;

**AND WHEREAS** Chief and Council has the right to govern to foster safe, healthy, peaceful and respectful communities on its Lands;

## 1. TITLE

1.1 This Law may be cited for all purposes as the "Wasoqopa'q Disorderly Conduct and Nuisances Law".

## 2. DEFINITIONS

2.1 In this Law, unless the context otherwise requires:

**"Allied Agency"** means an external agency with which a Bylaw Enforcement Officer works or liaises;

**"Bylaw Enforcement Officer"** means an officer appointed by Council, from time to time, to administer and enforce the provisions of Wasoqopa'q bylaws or Band Council Resolutions enacted or passed by Council;

**"Council"** means the Chief and Council of Wasoqopa'q, the governing body of the First Nation;

**"Disorderly Conduct"** means any act or behavior on WFN Lands of:

- a) fighting;
- b) making or causing unreasonable noise;
- c) using abusive language;
- d) using offensive or indecent gestures or displays;
- e) being drunk or otherwise intoxicated in public;
- f) loitering;
- g) exposing, firing or discharging any gun, pistol or other firearm, or using or threatening to use any other article as a weapon, except in defence of life or property;
- h) interfering in any manner with the orderly conduct of commercial, administrative, educational, recreational, health care, religious or ceremonial activities on Wasoqopa'q Lands;
- i) having open liquor in a public area;
- j) possession of a controlled substance or drug paraphernalia in a public area;

- k) littering;
- l) trespass;
- m) refusing to leave a public area when directed to do so by an WFN Bylaw Enforcement Officer or a peace officer;
- n) urinating or defecating in a public area;
- o) committing mischief on the property of another person; or
- p) any other disorderly behavior that disrupts public order on Wasoqopa'q Lands, scandalizes the community, or causes public inconvenience, annoyance or alarm;

**"Nuisance"** means any act, activity or condition on WFN Lands of:

- a) the abandonment of cars, household appliances or furniture, or parts of cars, household appliances or furniture, or other similar refuse;
- b) the dumping or storage of tires, garbage or other refuse;
- c) the discharge of any hazardous substance into the air or water;
- d) excessive noise;
- e) the creation of noxious smells;
- f) vandalism, including damage to WFN Lands or property; or
- g) any other act that materially impairs the use and enjoyment of WFN Lands, or that prejudicially affects a person's health, comfort or convenience or the public health, safety or welfare of Wasoqopa'q or its communities, but does not include any act, activity or condition to the extent it is unavoidably necessary for carrying on any business or other means of livelihood authorized by Council;

**"peace officer"** means a member of a police force of an external government with jurisdiction on WFN Lands;

**"Violation Warning"** and **"Violation Notice"** mean, respectively, a warning or a notice issued for breach, or possible breach, of an Wasoqopa'q Bylaw;

**"Wasoqopa'q "** or **"WFN"** means the Wasoqopa'q First Nation;

**"Wasoqopa'q Lands"** means: (a) the Wasoqopa'q Reserves; and (b) lands owned in fee simple by Wasoqopa'q First Nation.

**3. DISORDERLY CONDUCT**

3.1 Everyone who commits an act of disorderly conduct is in breach of this Bylaw.

3.2 A Bylaw Enforcement Officer may order any person who is engaging in disorderly conduct to stop such conduct immediately.

3.3 For each contravention, a Bylaw Enforcement Officer may complete and issue a Violation Warning or a Violation Notice to a person against whom a disorderly conduct contravention is alleged.

**4. NUISANCE**

4.1 Everyone who creates or causes a nuisance is in breach of this Bylaw.

4.2 A Bylaw Enforcement Officer may order any person who is causing or who threatens to cause a nuisance on Wasoqopa'q Lands to refrain from causing the nuisance or to abate the nuisance within such period as is reasonable in the circumstances.

4.3 For each contravention, a Bylaw Enforcement Officer may complete and issue a Violation Warning or a Violation Notice to a person against whom a nuisance contravention is alleged.

**5. ENFORCEMENT**

5.1 Where a person who has been ordered to stop engaging in disorderly conduct, or to refrain from causing a nuisance or to abate a nuisance within a specified period, fails or refuses to comply with the direction, the Bylaw Enforcement Officer may take such reasonable measures as are necessary to stop the disorderly conduct, or to prevent or to abate the nuisance, including requesting the assistance of a peace officer or an Allied Agency.

5.2 Nothing in this Law precludes Wasoqopa'q from pursuing any other enforcement action or remedy provided for in law.

5.3 Where Wasoqopa'q gives notice to or imposes an additional cost or charge against the occupants of a home, and two or more persons are shown as the designated occupants of that home, then:

- a) the Bylaw Enforcement Officer may issue the Violation Warning or Violation Notice to any one occupant or to multiple occupants jointly; and

- b) a Violation Notice given to or a cost or charge imposed against one designated occupant is not invalidated by the failure to give notice to or impose a charge against any other designated occupant.

5.4 No person shall obstruct, interfere with or hinder Council, a Bylaw Enforcement Officer or any authorized employee or agent in the carrying out of their duties and responsibilities under this Law, or any other Wasoqopa'q bylaw or Band Council Resolution.

5.5 Each day a violation of a Bylaw continues will be deemed to be a separate offence for which a Violation Notice may be issued.

5.6 A Violation Ticket issued by a Bylaw Enforcement Officer will be rebuttable proof of the facts described therein and of the breach of any Bylaw referred to in that Violation Ticket. A Violation Ticket may impose a fine of up to fifty (\$50.00) dollars, which is to be paid within 30 days of its issuance and, if unpaid, may be deducted by the First Nation from any discretionary payments to that person.

## **6. REVIEW HEARINGS**

6.1 Council may consider a complaint that a person has or is committing disorderly conduct or a nuisance on WFN Lands. For greater certainty, the issuance of a Violation Notice forms a complaint which may, at the discretion of Council, give rise to a Review Hearing.

6.2 In addition to any fine imposed in a Violation Notice, Council can impose restrictions on any person who has or is committing disorderly conduct or a nuisance on WFN Lands, which can include:

- a) a full or partial ban of that person from WFN Lands, for a defined term or indefinitely,
- b) the designation of certain hours when the person is not permitted on any or a specified portion of WFN Lands;
- c) terms of probation for a specified period of time, the breach of which would result in a pre-determined full or partial ban;
- d) orders for recovery of costs or expenses; and
- e) such other orders as Council may issue to accomplish the purposes of this Law.

6.3 Subject to section 6.5, Council will not issue an order under section 6.2 against a Band member without a Review Hearing.

6.4 Council may issue an order under section 6.2 against a person who is not a Band member without the requirement for a hearing or advance notice.

6.5 Council may issue an order under section 6.2 against a Band member without a Review Hearing if, in the opinion of the Band Council, an urgent situation exists and a delay in issuing such an order could reasonably be expected to result in real or perceived dangers to the safety, health or peace of other residents on the WFN Lands.

6.6 If Council decides to hold a Review Hearing under this Bylaw, the Council shall:

- a) Schedule a Review Hearing;
- b) At least fourteen (14) days prior to the Review Hearing:
  - i) give written notice to the person subject to the Hearing of the date, time and place of the Hearing and inform the person that he or she has the right to appear and be heard at the Hearing; and
  - ii) Post a copy of that notice in the Band office;
- c) At the Hearing, provide the person subject to the Hearing:
  - i) with a summary of the material facts supporting the allegations, which need not provide the names of witnesses or complainants; and
  - ii) an opportunity to present information and make oral and written submissions;
- d) Provide any Band member present at the Hearing the opportunity to be heard, and give the person subject to the Hearing an opportunity to further respond;
- e) Meet *in camera* to consider the matter after the Hearing has concluded;
- f) Produce written reasons in support of the decision within ten (10) days of the hearing to the person subject to Review;
- g) Post the written reasons in the Band Office five (5) business days after it is communicated to the person subject to Review.

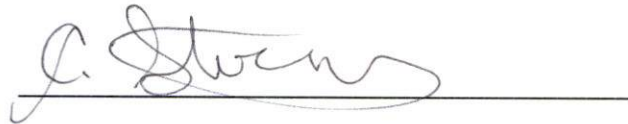
6.7 If Council issues an order without a hearing in accordance with section 6.5, the person against whom the order is issued can request a Reconsideration Hearing within thirty (30) days of receiving the Band Council's decision, by written notice to the Band Manager. The Request for Reconsideration must contain information which was not before Council at the time it made its original decision.

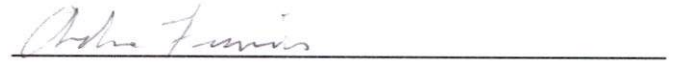
7. GENERAL

7.1 If any section or subsection of this Law is for any reason held invalid by a decision of a court of competent jurisdiction, the invalid section or subsection will be severed from and not affect the remaining provisions of this Law.

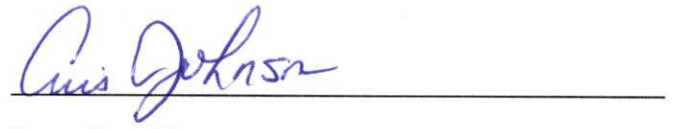
7.2 The headings given to the sections in this Law are for convenience of reference only. They do not form part of this Law and will not be used in the interpretation of this Law.

  
Chief

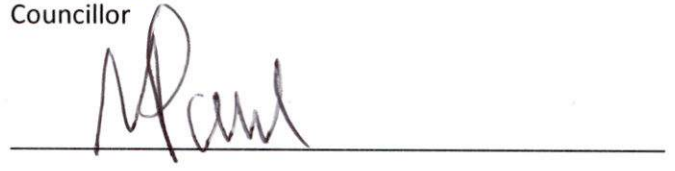
  
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