

Private Store Location and Operation By-Law of the Wasoqopa'q First Nation

A By-Law Governing the Location and Operation of Private Stores on Wasoqopa'q First Nation Reserves by Band Members:

WHEREAS the Chief and Council of Wasoqopa'q First Nation desire to make a by-law governing the location and operation of stores on Wasoqopa'q First Nation reserve lands and fee simple lands by its members and others.

AND WHEREAS Wasoqopa'q First Nation is empowered by its inherent right to govern, including jurisdiction over its reserve lands and membership as recognized and affirmed by section 91(24) of the *Constitution Act, 1867*, and section 35 of the *Constitution Act, 1982*, to enact the present by-law.

AND WHEREAS Wasoqopa'q First Nation is further empowered to make this by-law pursuant to sections 81(1)(d), (g), (h), (n), (p), and (q) of the *Indian Act*.

AND WHEREAS Wasoqopa'q First Nation enacted a Residency By-law on April 20, 2020, governing the residence, occupation and use of its reserve lands by members and other persons, which prohibits any person from occupying any portion of its reserves without approval or statutory entitlement as referenced in section 5.4 (section 4.2).

AND WHEREAS Wasoqopa'q First Nation has a duty to protect the safety, health, and well-being of its reserve residents, and the success of its business for the benefit of the Band as a whole, which protections were deemed to be important to Band members in a recent survey.

AND WHEREAS the right and entitlement of members to occupy or otherwise use the reserves is subject at all times to the inherent right of the Chief and Council to govern to ensure safe, healthy and peaceful communities.

NOW THEREFORE the Chief and Council of Acadia First Nation hereby make the following by-law:

1.0 SHORT TITLE

1.1 This by-law may be cited as the "Wasoqopa'q First Nation Private Store By-law".

2.0 PURPOSE

2.1 Wasoqopa'q First Nation seeks to regulate the operation of stores by Band members and others on its reserves in an equitable manner to create safe and

healthy communities, and economic success of Band-owned business for the benefit of community as a whole.

2.2 The goals of the Wasoqopa'q First Nation Private Store By-law are to:

- (a) Establish a fair process for operation of stores by Band members and others on its reserves and fee simple lands;
- (b) Foster safe, healthy, peaceful and respectful communities on its reserves; and
- (c) Ensure effective operation of Band-owned businesses whose revenues benefit the Wasoqopa'q First Nation as a whole.

3.0 DEFINITIONS

3.1 In this By-Law

- (a) "Applicant" means a person who has submitted an application for permission to be a resident of the reserve in accordance with section 5;
- (b) "Band Member" means a person whose name appears on the Wasoqopa'q First Nation list pursuant to the *Indian Act* or, if applicable, the Membership rules of the First Nation;
- (c) "Band Council" means the Band Chief and Council, as defined in the *Indian Act*, of Wasoqopa'q First Nation;
- (d) "Store" means any retail establishment selling items to the public;
- (e) "First Nation" means the Wasoqopa'q First Nation;
- (f) "Indictable Offence" includes a hybrid offence that proceeded by way of summary conviction;
- (g) "Officer" means any police officer, police constable or other person charged with the duty to preserve and maintain the public peace, and any by-law enforcement officer or other person appointed by the Council for the purpose of maintaining law and order on the Reserve; and
- (h) "Reserve" means any of the following:
 - a. Gold River Reserve number 21;
 - b. Medway Reserve number 11;
 - c. Ponhook Reserve number 10;
 - d. Wildcat Reserve number 12;
 - e. Yarmouth Reserve number 33;

- f. Hammonds Plains Reserve number 67;
- g. Wasoqopa'q First Nation fee simple lands; and
- h. Any future reserve of the Wasoqopa'q First Nation.

ELIGIBILITY TO OPERATE A STORE

- 4.1 A person is eligible to operate a Store on the Reserve if that person:
- (a) Is a registered Band Member who is 18 years of age, unless they are required to be older by any applicable law;
- and
- (b) Has the approval of Band Council to operate a Store pursuant to Section 6.0 of this By-Law.
- 4.2 Any person who is not approved to operate a Store on the Reserve is not entitled to do so.

5.0 APPLICATIONS FOR PERMISSION TO OPERATE A STORE

Applications for Permission to Operate

- 5.1 Any person who wishes to operate a Store on the Reserve must apply to the Band Council for permission to do so, or to extend any defined period for which permission was previously granted to the person to operate a Store on the Reserve.
- 5.2 Applications for permission to operate a Store must be submitted to the Band Council in writing and include:
- (a) The type of Store the Applicant would like to operate;
 - (b) The length of time the Applicant proposes to operate the Store;
 - (c) The Applicant's preferred place of Store location, if applicable;
 - (d) The names of any additional persons with whom the Applicant proposes to operate the Store with, if applicable;
 - (e) Any additional information the applicant wishes to provide relating to the conditions listed in subsection 6.6; and
 - (f) Such other information as the Band Council may request.

6.0 CONSIDERATION OF APPLICATIONS FOR PERMISSION TO OPERATE A STORE

6.1 In reviewing applications for permission to operate a Store, the Band Council shall consider the following factors:

- (a) Whether the Applicant is eligible to operate a Store pursuant to section 4.1(a) of this By-Law;
- (b) Whether the Applicant has arranged for a place to operate the Store on the Reserve;
- (c) Whether the proposed Store will be operated from a shed, other temporary or moveable structure, or will be stationary or immovable;
- (d) The number of Stores being operated by Band members at the time of application;
- (e) The availability of suitable locations for Store operation on the Reserve;
- (f) Whether the operation of the Applicant's store on the Reserve would be compatible with the culture, society, and community of Wasoqopa'q First Nation, and the safety or health of those residing on the Reserve;
- (g) Whether the Applicant's approval to operate a Store on the Reserve has been previously revoked, or disallowed pursuant to this By-Law, the circumstances surrounding that revocation/disallowance, any change in the nature of the Applicant's Store operation or other circumstances.

6.2 Once the Band Council is satisfied it has all information necessary to make a decision, it shall:

- (a) Consider all the information included with the application;
- (b) Facilitate an interview with the Band Member with one or more member(s) of the Band Council, if deemed necessary in the discretion of the Band Council;
- (c) Meet *in camera* to consider the application;
- (d) Dispose of the application by:
 - (i) Approving the application as proposed;
 - (ii) Approving the request in part or subject to certain conditions;

- (iii) Extending any defined period for which permission was previously granted to the Applicant to operate a store on the Reserve; or
- (iv) Refusing the application.

6.3 The Band Council shall give notice of its decision to the Applicant.

6.4 The decision of the Band Council shall be final, and not subject to appeal except by way of a request for reconsideration in accordance with section 7.6 of this By-Law.

Conditions Applicable to All Band Members Permitted to Operate a Store

6.6 All Band Members who receive permission to operate a store on Reserve lands must operate in accordance with the following conditions:

- (a) Stores may not be located within one-hundred and fifty (150) meters of a facility or structure, or the parking lot of any such facility or structure, used by any Band-owned business;
- (b) Stores may not be located within one-hundred and fifty (150) meters of a public park, day care, or recreational facility;
- (c) Stores may only sell merchandise that is legal; and
- (d) Stores must not be abandoned or permitted to become derelict.

7.0 DISALLOWANCE OF CONTINUED STORE OPERATION

7.1 The Band Council may cancel, revoke or vary the permission granted to a Band member to operate a store, or disallow a Band Member's continued operation of a store if, in the opinion of the Band Council:

- (a) The Band Member has contravened the conditions set out in section 6.6 of this By-law;
- (b) The operation of the Band Member's Store is reasonably believed to be interfering with the ability of Residents to live on the Reserve in a safe and healthy manner, and in peace; and
- (c) The Band Member is engaged in illegal activities from the Store, notwithstanding the involvement of law enforcement.

7.2 The Band Council will communicate any cancellation, revocation, variance or disallowance to the Band member as soon as practicable, by whatever means are most effective in the circumstances, in the discretion of the Band Council.

7.3 Notwithstanding anything else in this By-law, the Band Member to whom permission to operate a Store has been granted is deemed to be responsible for all aspects of the store operation, whether or not there are others assisting with the operation of the store.

Request for Reconsideration

7.4 A Band Member who receives a decision under sections 6.2 or 7.0 may submit a request for reconsideration within thirty (30) days of receiving notice of the Band Council's decision on the grounds that:

(a) There has been a change in the Band Member's intended operation of the store or other circumstances relevant to the operation or Band Member;

(b) The Band Member possesses information relevant to the Band Member's store operations that was not known at the time of the Band Council's decision.

7.5 Upon receiving a request for reconsideration, the Band Council shall reconsider the matter, which reconsideration shall not require a hearing, and provide notice, with or without reasons, of the outcome within fourteen (14) days of receiving the request. The outcome of these considerations represents the final decision of the Band Council.

7.6 The final decision of the Band Council is binding and not subject to appeal.

Non-Band Members

7.7 Subject to any applicable legislation, or a court Order, the Band Council may disallow a non-Band Member of Wasoqopa'q First Nation from continuing to operate a store on Reserve at its discretion.

8.0 ENFORCEMENT

8.1 Officers have the following powers of enforcement with respect to this By-Law:

(a) An Officer may order any person who is occupying or using the Reserve to operate a store without permission to cease and desist operating the store on Reserve; and

(b) An Officer may cause to be removed from the Reserve any stores which are operating without permission, at the expense of the Band member operating the store.

8.2 Any person who fails to comply with a request under paragraph 8.1 (a), or any written direction of the Band Council pursuant to this By-law, commits an offence



and may be subject to the penalties set out in Section 9.0, or be subject to Court order pursuant to section 81(3) of the *Indian Act*.

9.0 PENALTIES

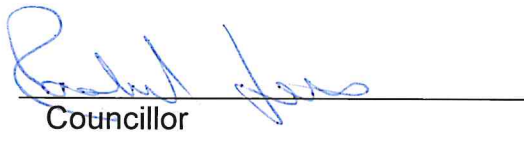
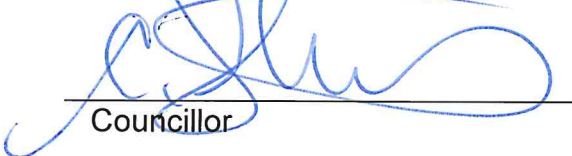
11.1 Any person who contravenes any of the provisions of this By-Law is a trespasser on the Reserve and commits an offence under Section 31 of the *Indian Act* and is liable on summary conviction to a fine not exceeding one thousand dollars (\$1,000.00) or to imprisonment for a term not exceeding thirty (30) days, or both.

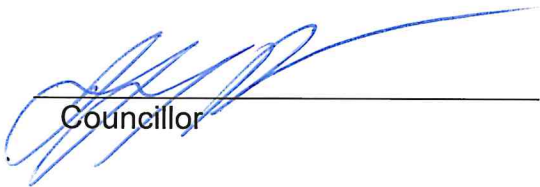
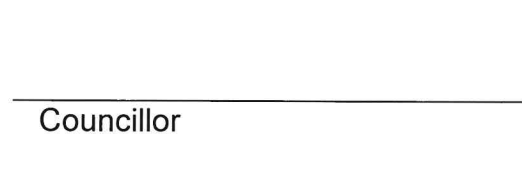
THIS BYLAW IS HEREBY enacted at a duly convened meeting of the Council of the Wasoqopa'q First Nation this 16 day of July, 2024.


Voting in favour of this bylaw are the following Members of the Council:

 Chief  Councillor

 Councillor  Councillor

 Councillor  Councillor

 Councillor  Councillor

 Councillor