

**BAND COUNCIL RESOLUTION
BORDER CLOSURE ORDER**

WHEREAS the COVID-19 virus has been declared a Pandemic by the World Health Organization and is spreading at an alarming rate.

WHEREAS Canada has restricted non-essential travel by citizens in order to contain the COVID-19 pandemic.

WHEREAS Washagamis Bay First Nation (the “community”) supports the restriction of non-essential travel to and from our territory to curb the spread of the virus.

WHEREAS the community passed a BCR on March 31st, 2020 issuing a Health Emergency Declaration and restricting access to our territory.

WHEREAS the community asserts title over the whole of our territory, rooted in the pre-colonization occupation of land by our relatives, and in our pre-existing systems of law and governance.

WHEREAS the right of Aboriginal title is both a right of possession and a right to govern the communal lands of Aboriginal title-holders in accordance with our own systems of law and governance.

WHEREAS the community relies upon the inherent jurisdiction to create law, enshrined in Canadian law with the signing of Treaty 3, asserting our rights and principles of law, and inherent right to self-determination.

WHEREAS the community has the authority and jurisdiction to create a Border Closure Order to restrict travel for the health or safety of our citizens and residents.

WHEREAS the community has the authority to create a Border Closure Order to restrict non-member’s access to our territory pursuant to Section 30 of the *Indian Act* R.S.C., 1985, c. I-5:

30 A person who trespasses on a reserve is guilty of an offence and liable on summary conviction to a fine not exceeding fifty dollars or to imprisonment for a term not exceeding one month or to both.

WHEREAS the community has the further authority and jurisdiction to create a Border Closure Order to restrict travel for the health or safety of our citizens and residents, pursuant to Section 2(1)(b) of the *Trespass to Property Act*, R.S.O. 1990:

2 (1) Every person who is not acting under a right or authority conferred by law and who,
(b) does not leave the premises immediately after he or she is directed to do so by the occupier of the premises or a person authorized by the occupier,
is guilty of an offence and on conviction is liable to a fine of not more than \$10,000.

WHEREAS the community has the authority to enforce restrictions to entry of our borders, pursuant to Section 9 of the *Trespass to Property Act*, R.S.O. 1990:

9 (1) A police officer, or the occupier of premises, or a person authorized by the occupier may arrest without warrant any person he or she believes on reasonable and probable grounds to be on the premises in contravention of section 2.

WHEREAS the authority to make law necessarily includes the authority to enforce the same.

THEREFORE BE IT RESOLVED that the community hereby Orders that the border be monitored and patrolled for anyone travelling to and from the Territory and that travel is limited to essential travel only.

FURTHER BE IT RESOLVED that the community work with the Treaty Three Police Service (“T3PS”) as an independent partner in the herein joint restriction of travel.

FURTHER BE IT RESOLVED that T3PS enforce this Border Closure Order with the following offences:

- Fail to comply with an order made during an emergency = Fine of \$750 or imprisonment of not more than 30 days;
- Obstruction of Person exercising a power in accordance with an emergency order = Fine of \$1,000;
- Obstruction of Person performing a duty in accordance with an emergency order = Fine of \$1,000.
- Fail to abide by refusal of entry by an officer pursuant to the *Indian Act* and *Trespass Act* = arrest without a warrant

FURTHER BE IT RESOLVED that while the police, using all lawful means, will assist in the enforcement of the Border Closure Order, T3PS must remain independent of all political leadership as required by the relevant bylaw(s) and funding agreement(s).

FURTHER BE IT RESOLVED that the Chief of Police will have final independent authority over operational enforcement actions and that such authority is to be exercised independent of any political direction, pressure or interference.

FURTHER BE IT RESOLVED that the community has the authority to: 1) allocate the appropriate financial and human resources to support or augment the independent work of T3PS; 2) acquire or rent safety equipment; and 3) exempt essential service providers and essential travel from the Border Closure Order.

FURTHER BE IT RESOLVED that the Chief and/or an operational designate will maintain a list of Essential Service Providers, as well as a List of Essential Travel, and that such lists will be publicly available. It is expected that this list may from time to time be updated at the discretion of the Chief and/or an operational designate and that such update will be provided in the form of a notice, distributed in the same manner as this resolution.

Date: April 19th, 2020

BCR #: 2020-04-19-01

FINALLY, BE IT RESOLVED that this BCR will remain in effect until the provincial State of Emergency has been lifted, or by further order of Chief and Council rescinding the Health Emergency Declaration.

Chief Marilyn Sinclair

Councillor Dolores Sinclair

Councillor Brenda Chartrand

Councillor Ruth Paypom