

**BAND COUNCIL RESOLUTION  
FIRST NATION 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** the “community” supports the restriction of non-essential travel to and from our Territory to curb the spread of the virus in.

**WHEREAS** the “community” assert title over the whole of our unceded 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 #9, and renewed with “A Declaration of the Nishnawbe-Aski, 1977”, 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 activities.

**FURTHER BE IT RESOLVED** that the “community” work with the Nishnawbe Aski Police Service (“NAPS”) as an independent partner in the joint restriction of travel measures.

**FURTHER BE IT RESOLVED** that NAPS 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, the Police Service must remain independent of all political leadership as required by NAPS bylaws and the funding agreement;

**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;

**FINALLY, 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 NAPS; 2) acquire or rent safety equipment; and 3) exempt essential services and essential travel from the Border Closure Order. The “community” Chief and an operational designate will define essential services and essential travel on a rolling basis.

Moved by:

Seconded by:

Decision:

Dated: