Whitefish River First Nation

BAND COUNCIL RESOLUTION

CHRONOLOGICAL NO.
3883
FILE REFERENCE NO.

NOTE: The words "from our Band Funds" "capital" or "revenue", whichever is the case, must appear in all resolutions requesting expenditures from Band Funds.

		Cash Free Balance
The Council of the WHITEFISH RIVER FIRST NATION		Capital Account $
Date of Duly Convened Meeting May 5, 2020	Province ONTARIO	Revenue Account $

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

WHEREAS the Whitefish River First Nation (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 inherent jurisdiction to create law, enshrined in Canadian Law under the Royal Proclamation and Treaty of Niagara, asserting our rights and principles of law, and inherent self-determination.

WHEREAS the fight 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 or law and governance.

WHEREAS Whitefish River First Nation has already passed BCR# 3882 (a copy of which is attached to this BCR) to curb the spread of the virus within the community.

WHEREAS the community has the authority and jurisdiction to create a Border Closure Order to restrict travel to our territory pursuant to Section 30 of the *Indian Act* R.S.C. 1985 c.1-5:

> **30.** A person who trespasses on a reserve is guilty of an offence and liable on summary conviction to a find not exceeding fifty dollars ($50.00) 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 ten thousand ($10,000.00).

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 a premises, or a person authorized by the occupier may arrest without warrant any person he or she believes on reasonable and probably 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 UCCM Anishinabe Police (the "police service") as an independent partner in the herein joint restriction of travel.

FURTHER BE IT RESOLVED that the Police Service enforce this Border Closure with the following offenses:

- Fail to comply with an order made during an emergency = Fine of $750.00 or imprisonment of not more than 30 days;
- Obstruction of Person exercising a power in accordance with an emergency order = Fine of $1,000.00;
- Obstruction of Person performing a duty in accordance with an emergency order = Fine of $1,000.00;
- 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 the relevant by-law(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 the Police Service; (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 Travellers that can pass through Whitefish River First Nation, a List of Non-Essential Travellers and those Restricted to come through Whitefish River First Nation, as well as a List of Essential Travel outside the Borders of Whitefish River First Nation, and that such lists will be publically available. It is expected that this list may from time to time be updated at the discretion of the Chief and/or designate and that such updates will be provided in the form of a notice, distributed in the same manner as this resolution.

FINALLY, BE IT RESOLVED that this BCR will remain in effect until rescinded by Chief and Council at a duly convened meeting.

Quorum – (4)

Councillor	Chief	Councillor
Councillor	Councillor	Councillor
Councillor	Councillor	Councillor

FOR DEPARTMENTAL USE ONLY					
Expenditure	Authority - Indian Act Section	Source of Funds ☐ Capital ☐ Revenue	Expenditure	Authority - Indian Act Section	Source of Funds ☐ Capital ☐ Revenue
Recommending Officer Signature Date			Recommending Officer Signature Date		
Approving Officer Signature Date			Approving Officer Signature Date		