



AAMJIWNAANG
Chief and Council Resolution

2020/2021

Resolution Number: 2020/2021 # 04

At a Duly Convened Meeting held on Aamjiwnaang Territory

On the **4th** In the Month of, **May** In the Year of, **2020**

Department: Chief and Council

Purpose: TRESPASS BY-LAW

WHEREAS the Chief and Council of Aamjiwnaang First Nation desire to make a by-law to provide for the removal and punishment of person trespassing on Aamjiwnaang lands or premises;

AND WHEREAS the Chief and Council of Aamjiwnaang deems it necessary that for the orderly conduct of, and for the health, welfare, and safety of the members of Aamjiwnaang to make a bylaw for such purposes;

WHEREAS the paragraphs 81(1)(c),(p),(q) and (r) of the *Indian Act*, R.S.C., 1985, c. I-5, affirm the powers of the Chief and Council of Chief and Council of Aamjiwnaang, to, among other things, make by-laws to remove and punish persons trespassing on the reserve or frequenting the reserve for prohibited purposes and the observance of law and order;

AND WHEREAS the Police Services Agreement between Aamjiwnaang First Nation and the Sarnia Police Services Board grants the Board the authority to enforce applicable Bylaws of Aamjiwnaang as agreed to by Chief and Council;

AND WHEREAS the following directives are under the jurisdiction of Aamjiwnaang Chief and Council and in line with the *Trespass to Property Act*, R.S.O. 1990, c. T.21;

THEREFORE BE IT RESOLVED THAT: the Chief and Council of Aamjiwnaang, hereby enacts the following by-law:

Title

1. This bylaw may be cited as the "Trespass Bylaw".

Interpretation

2. In this bylaw:
 - a. "Chief and Council" means the duly elected Chief and Council of Aamjiwnaang First Nation;
 - b. "Designated Representative of Aamjiwnaang First Nation" means an authorized representative of Aamjiwnaang First Nation, authorized by Chief and Council to give notice to a person not to trespass;



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- c. "Peace Officer" means a police officer or police constable of the Sarnia Police Service;
- d. "premises" means a building, structure, or any lands used in connection with a building or structure for the purposes of:
 - i. Providing parking for vehicles;
 - ii. Displaying or storing vehicles, equipment or other chattels;
 - iii. Enhancing the appearance or use of a building or structure; or
 - iv. Carrying out activities which are ancillary to the activities carried out in or on that building or structure
- e. "sign" means a poster, signboard or other visible item providing notice to the person;
- f. "trespass" means an unauthorized or uninvited presence on Aamjiwnaang lands or premises;
- g. "trespasser" means a person who commits trespass under this bylaw or the common law;
- h. "Aamjiwnaang lands" means those lands designated as reserve lands of the Aamjiwnaang First Nation, more generally described as Reserve No. 45.

Trespass

1. No person may trespass on Aamjiwnaang lands, waters or premises when that person has notice not to trespass.
2. Notice not to trespass shall be given:
 - a. Orally by a Peace Officer or Designated Representative of Aamjiwnaang First Nation;
 - b. In writing by a Peace Officer or Designated Representative of Aamjiwnaang First Nation;
 - or
 - c. By signs visibly displayed:
 - i. At entrances providing access to Aamjiwnaang lands and waters; or
 - ii. At other prominent locations on Aamjiwnaang lands and waters.
3. A trespasser shall be deemed to have had notice not to trespass:
 - a. When signs are displayed in accordance with subsection (2)(c); or
 - b. Upon refusal of an order from a Peace Officer or Designated Representative of Aamjiwnaang First Nation under section 5(1) to leave Aamjiwnaang lands or premises.

Apprehension and Removal

4. (1) A Peace Officer or Designated Representative of Aamjiwnaang First Nation may order a trespasser on Aamjiwnaang lands or premises to leave Aamjiwnaang lands immediately.
- (2) When a trespasser has notice not to trespass, a Peace Officer may:
 - a. arrest the trespasser without warrant;
 - b. issue a notice of appearance requiring the trespasser to appear before a court; or
 - c. use all reasonable measures, including restraint, physical force or powers of



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arrest to remove the trespasser from Aamjiwnaang lands.

(3) When a trespasser has notice not to trespass, a Designated Representative of Aamjiwnaang First Nation shall report the incident to a Peace Officer, who may then proceed under section 5(2).

(4) A person who fails or refuses to comply with an order made under subsection 5(1) to leave the reserve, or shall resist or interfere with an officer acting under subsection 5(2) commits an offence.

Exceptions

5. (1) This bylaw shall not apply to:
- a. A person who, under an enacted law, bylaw or duly executed contract is permitted to conduct business or business-related activities on Aamjiwnaang lands; or
 - b. A person who has been invited or granted access to Aamjiwnaang lands by Chief and Council.

Offence

6. A trespasser with notice not to trespass is guilty of an offence and shall be liable on summary conviction to a fine not exceeding one thousand (\$1,000) dollars or imprisonment for a term not exceeding thirty (30) days, or both.

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QUORUM: FIVE (5)



(Chief Chris Plain)


(Councillor Shawn Plain)


(Councillor John Adams)


(Councillor Mike Jackson)


(Councillor Dallas Sinopole)


(Councillor Tom Maness)


(Councillor Marina Plain)


(Councillor Janelle Nahmabin)