



**SIKSIKA NATION OMAHKITAPIIKS (ELDERS) AND VULNERABLE PERSONS PROTECTION BY-LAW
NO. 2023-XX**

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SIKSIKA NATION

SIKSIKA NATION *OMAHKITAPIIKS* (ELDERS) AND VULNERABLE PERSONS PROTECTION BY-LAW

BEING A BY-LAW OF THE SIKSIKA NATION WITH THE PURPOSE OF ESTABLISHING RULES FOR THE PREVENTION OF *OMAHKITAPI* (ELDER) ABUSE AND THE PROTECTION OF VULNERABLE PERSONS RESIDING ON SIKSIKA NATION RESERVE #146;

WHEREAS the Siksika Nation Reserve #146 has been set apart for the use and benefit of Siksika Nation members and the exclusive use of the Siksika Nation Reserve #146 by Siksika Nation members is an inherent right and an aboriginal treaty right that is recognized and affirmed by Section 35 of the *Constitution Act 1982*;

WHEREAS the Siksika Nation has and continues to exercise their inherent right to self-determination, including the inherent right of self-government, as recognized and affirmed by the Government of Canada, the *United Nations Declaration on the Rights of Indigenous Peoples* (2021), and Section 35 of the *Constitution Act 1982*, Schedule B to the *Canada Act 1982* (UK), 1982 c.11 and as protected by Blackfoot Treaty of 1877 (Treaty No. 7), and as exercised and affirmed by the *Siksika First Nation Constitution*;

AND WHEREAS the Siksika Nation affirms its authority to maintain, grow, and preserve a system of governance, law, and order for its people, its land, and the Siksika Nation as a whole;

AND WHEREAS the Siksika Nation through time immemorial and to this day, undertook to protect its *Omahkitapiiks* (Elders) and vulnerable members in maintaining *Pomiikapi* (peace and harmony) with enforcement by Siksika Nation Traditional Societies;

AND WHEREAS the Siksika Nation strives to ensure that *Omahkitapiiks* (Elders) and vulnerable members are protected from abuse and to do so in a conscientious, respectful, peaceful and prompt manner;

AND WHEREAS the Council of the Siksika Nation has the inherent right to govern the Siksika Nation and to exercise the powers of a “council of a band” under the *Indian Act*, R.S.C. 1985, c. 1-5 including the powers to make by-laws pursuant to Section 81;

WHEREAS pursuant to Section 81 of the *Indian Act*, R.S.C.1985, c.1-5, a council may make by-laws not inconsistent with the *Indian Act* and regulations made thereunder for any or all of the purposes set out in paragraph 81(1)(c), (d), (p), (p.1) and (q) thereof; and

AND WHEREAS the Council of the Siksika Nation deems it to be expedient and in the best interests of the Siksika Nation, and necessary for the benefit, comfort and safety of *Omahkitapiiks* (Elders) and vulnerable persons residing both on and off the Siksika Nation Reserve #146 to make

a by-law providing an efficient mechanism for preventing and addressing instances of *Omahkitapiiks* (Elders) and vulnerable person abuse;

NOW THEREFORE COUNCIL OF THE SIKSIKA NATION DULY ASSEMBLED, ENACTS AS FOLLOWS:

PART I – TITLE, DEFINITIONS, AND APPLICATION

1. SHORT TITLE

1.1. This By-law may be cited as the "*Siksika Nation Omahkitapiiks (Elders) and Vulnerable Persons Protection By-law*".

2. DEFINITIONS

2.1. In this By-law, unless the context otherwise requires:

- (a) **"Abuse"** means, in respect of an *Omahkitapi* or a Vulnerable Person:
 - (i) causing pain, injury or harm to health, including, but not limited to, committing the *Criminal Code* offences of assault, unlawful confinement, and robbery,
 - (ii) illegally or improperly using funds or assets owned by or in the possession of the *Omahkitapi* or Vulnerable Person, including, but not limited to, committing the *Criminal Code* offences of theft, extortion, breaking and entering, and fraud,
 - (iii) inflicting mental anguish or suffering, including, but not limited to, committing the *Criminal Code* offence of uttering threats,
 - (iv) engaging in a non-consensual sexual activity, including, but not limited to, the *Criminal Code* offence of sexual assault, and
 - (v) failing to provide services or necessary care, including, but not limited to, the *Criminal Code* offence of failure to provide the necessaries of life;
- (b) **"Aiskapimohkiiks"** means the Siksika Nation's Traditional Justice Dispute Resolution Program, as varied, modified or replaced from time to time;
- (c) **"Bad Faith"** means anything done or any purposeful omission done for a dishonest or for an improper or malicious purpose;
- (d) **"Band Council Resolution"** means a written resolution signed and adopted by a quorum of Council at a duly convened meeting;

- (e) **“By-law”** means this *Siksika Nation Omahkitapiiks (Elders) and Vulnerable Persons Protection By-law*, unless otherwise specified in this By-law;
- (f) **“By-law Offence Notice”** means a By-law Offence Notice that is issued under Part III or Part IV of the *Siksika Nation Offences Procedures By-Law*;
- (g) **“Citizen”** means a citizen of the Nation under the *Siksika Nation Membership Code & Regulations*;
- (h) **“Complainant”** means a Citizen who brings a Complaint pursuant to this By-law;
- (i) **"Complaint"** means a complaint made by a Citizen in the prescribed form submitted to *Aiskapimohkiiks* pursuant to this By-law;
- (j) **"Council"** means the Council of the Nation, comprised of the Chief and Councillors of the Nation, duly elected from time to time under the *Siksika Nation Customary Election Code*;
- (k) **“Court”** means the Alberta Court of Justice and is not limited to the Alberta Court of Justice that is designated for sittings on the Reserve;
- (l) **“Criminal Code”** means the *Criminal Code*, R.S.C. 1985, c. C-46, as amended;
- (m) **“Enactment”** means any Nation by-law, regulation, or other form of legislation in relation to any matter over which the Council has authority;
- (n) **“Indian Act”** means the *Indian Act*, RSC 1985, c I-5 and any amendments thereto;
- (o) **“Nation”** means the Siksika Nation;
- (p) **"Officer"** means any police officer, peace officer or other Person charged with the duty to preserve and maintain the public peace, and enforce and carry out the provisions of the *Siksika Peace Officer By-Law* or otherwise for maintaining law and order on the Reserve under the following:
 - (i) *Police Act*, R.S.A 2000, c. P-17,
 - (ii) *Royal Canadian Mounted Police Act*, R.S.C, c. R-10,
 - (iii) *Security Services and Investigators Act*, S.A. 2008, c S-4.7,
 - (iv) *Peace Officer Act*, S.A. 2006, c P-3.5, and
 - (v) any By-law, regulation or another form of legislation enacted by Council;

- (q) **“Omahkitapi”** or **“Omahkitapiiks”** means any Citizen of at least sixty (60) years of age or an individual identified as an Elder by the Nation;
- (r) **“Person”** includes, but is not limited to, an association, society, corporation, Indigenous Group, partnership, or any other entity or individual that the law regards as capable of having rights and duties;
- (s) **“Petition”** means a formal written request from *Aiskapimohkiiks*, a Citizen or an Officer, asking Council to remove a Person from the Reserve pursuant to the *Siksika Nation Community Safety By-law*;
- (t) **“Premises”** means any parcel or lot of land or a portion thereof and includes any improvements, structures, or buildings situated thereon;
- (u) **“Relevant Police Service”** means the police service with jurisdiction where an alleged incident of Abuse occurs off-Reserve;
- (v) **“Reserve”** means the Siksika Indian Reserve No. 146, or any lands reserved for the Nation within the meaning of the *Indian Act*;
- (w) **“Respondent”** means an individual who is named in a Complaint as the person alleged to be committing Abuse;
- (x) **“Vulnerable Person”** includes, but is not limited to, any Citizen:
 - (i) that is under the age of 18,
 - (ii) that is a “mentally incompetent Indian” as defined in the *Indian Act*,
 - (iii) that is a “represented adult” as defined in the *Adult Guardianship and Trusteeship Act*, SA 2008, c A-4.2, as amended,
 - (iv) that is an “incapacitated person” as defined in the *Public Trustee Act*, SA 2004, c P-44.1, as amended, or
 - (v) any person that is, by virtue of their physical, emotional, psychological, or financial circumstances, reasonably deemed to be a Vulnerable Person by an Officer.

3. APPLICATION

- 3.1. This By-law applies to all individuals on the Reserve and to Citizens residing off the Reserve in circumstances as described in this By-law.
- 3.2. Where any Federal or Provincial Act, law, or regulation or any Nation by-law applies to any matter covered by this By-law, compliance with this By-law will not relieve a Person

from also complying with the provisions of any other applicable act, law, regulation or by-law.

PART II – PROCEDURES

4. COMPLAINTS

- 4.1. All Citizens have a duty to protect and safeguard their fellow Citizens, including *Omahkitapiiks* and Vulnerable Persons, from Abuse.
- 4.2. Any Citizen may file a Complaint with an Officer involving allegations of Abuse if there are reasonable and probable grounds to believe that an *Omahkitapi* or Vulnerable Person has been Abused.
- 4.3. No Person shall file a Complaint in Bad Faith.
- 4.4. The Officer shall inform the Complainant in writing and provide reasons if the Officer has rejected the Complaint for any reason.

5. ABUSE INVOLVING *OMAHKITAPIIKS* OR VULNERABLE PERSONS RESIDING ON THE RESERVE

- 5.1. Upon receipt of a Complaint involving allegations of Abuse in relation to an *Omahkitapi* or Vulnerable Person residing on the Reserve, an Officer may:
 - (a) issue a By-law Offence Notice to the Person or Persons named as the Respondent(s) in the Complaint;
 - (b) determine whether it would be appropriate to address the Complaint through traditional dispute resolution and directly refer the matter to *Aiskapimohkiiks*;
 - (c) provide the Complaint to the Relevant Police Service for investigation for the purpose of pursuing charges under the *Criminal Code*; or
 - (d) reject the complaint, pursuant to subsection 4.4 of this By-law, if the Officer is satisfied that the Complaint was made in Bad Faith, is unfounded, was made without reasonable and probable grounds, or was not in the prescribed form as set out in section 7 of this By-law.
- 5.2. Where an Officer receiving a Complaint does not reject the Complaint, that Officer shall assess whether the Respondent is currently entitled to reside on the Reserve in accordance with the *Siksika Nation Residency By-Law* or any other housing by-law or policy.

- 5.3. Where an Officer has satisfied themselves under subsection 5.2 of this By-law that a Respondent is entitled to reside on the Reserve, that Officer may thereafter submit the Complaint to Council, whereupon the Complaint shall be deemed a Petition for the purposes of the *Siksika Nation Community Safety By-Law* and be subject to the procedures set out in that by-law.
- 5.4. Where an Officer has satisfied themselves under subsection 5.2 of this By-law that a Respondent is not entitled to reside on the Reserve, that Officer shall inform the Respondent that he or she is committing an offence under the *Siksika Nation Trespass By-Law* and the Respondent shall thereafter be subject to the procedures set out in that by-law, in addition to any procedures that they are subject to under this and any other Enactment.
- 5.5. Where an Officer submits a Complaint to a Relevant Police Service pursuant to subsection 5.1(c) of this By-law, within thirty (30) days of such submission, that Officer shall notify Council or such person as duly authorised by the Council to receive notification, of the Complaint being submitted to a Relevant Police Service.

6. ABUSE INVOLVING OMAHKITAPI (ELDERS) OR VULNERABLE PERSONS RESIDING OFF THE RESERVE

- 6.1. Upon receipt of a Complaint involving allegations of Abuse in relation to an *Omahkitapi* or Vulnerable Person residing off the Reserve an Officer may:
- (a) where the person named as a Respondent in the Complaint resides on the Reserve, issue a By-law Offence Notice to the Person or Persons named as the Respondent(s) in the Complaint;
 - (b) determine whether it would be appropriate to address the Complaint through traditional dispute resolution and refer the matter to Aiskapimokiiks;
 - (c) submit the Complaint to the Relevant Police Service for the purpose of pursuing charges pursuant to the *Criminal Code*; or
 - (d) reject the complaint, pursuant to subsection 4.4 of this By-law, if the Officer is satisfied that the Complaint was made in Bad Faith, is unfounded, was made without reasonable and probable grounds, or was not in the prescribed form as set out in section 7 of this By-law.
- 6.2. Where an Officer submits a Complaint to a Relevant Police Service pursuant to subsection 6.1(d) of this By-law, within thirty (30) days of such submission, that Officer shall notify Council, or such person as duly authorised by the Council to receive notification, of the Complaint being submitted to a Relevant Police Service.

7. PRESCRIBED FORM OF COMPLAINTS

- 7.1. Any Complaint made under this By-law shall:
- (a) be in the prescribed statutory declaration as set out in SCHEDULE “A” to this By-law;
 - (b) include the Complainant’s name and contact information;
 - (c) set out the material facts regarding the Complaint, including:
 - (i) the name and contact information, and living situation of the Respondent, if available,
 - (ii) the name, contact information, and living situation of the *Omahkitapi* or Vulnerable Person, if available,
 - (iii) details regarding the alleged incident or incidents of Abuse including the contact information of any witnesses to the event or events, and
 - (iv) any supporting documents relevant to the allegations within the Complaint; and
 - (d) be provided to the attention of an Officer.

8. INVESTIGATION

- 8.1. If an Officer on reasonable and probable grounds believes that an *Omahkitapi* or Vulnerable Person has been Abused on the Reserve, the Officer may enter a Premises where the *Omahkitapi* or Vulnerable Person is believed to be located to conduct an investigation to determine the risk to life to the *Omahkitapi* or Vulnerable Person, or any other person who may be found in those Premises, and whether or not a violation of this By-law has been, or is being committed.
- 8.2. An Officer shall have the power to do any act which the Officer would otherwise be lawfully entitled to do as necessary to investigate, lay charges, and arrest any Person where an Officer believes on reasonable and probable grounds that the Person has contravened any provision of this By-law.

PART III – PENALTIES AND ENFORCEMENT

9. ENFORCEMENT

- 9.1. In addition to issuing a By-law Offence Notice to a person named as a Respondent in a Complaint, where an Officer believes on reasonable and probable grounds that a Respondent has committed Abuse against an *Omahkitapi* or Vulnerable Person, that

Officer may also order that Respondent or Respondents, as the case may be, to immediately leave the Premises where the *Omahkitapi* or Vulnerable Person is located immediately or within a specified period.

9.2. An order to leave a Premises issued under this By-law shall be issued:

- (a) verbally, with details recorded in writing thereafter; or
- (b) in writing.

9.3. A written order to leave a Premises under subsection 9.1 of this By-law shall be:

- (a) personally served upon given to the Respondent to whom it applies;
- (b) delivered to the last known address, other than the Premises of which the order addresses, of the Respondent to whom it applies; or
- (c) made available at the Nation administration building, or as otherwise designated by Council, to the Respondent to whom it applies if the address of the Respondent is unknown.

9.4. Where a Respondent fails or refuses to obey an order to leave a Premises they are committing an offence under this By-law, and any Officer may take such reasonable measures as may be necessary to remove the Respondent from the Premises including arresting the Respondent and forthwith taking the Respondent before the nearest Court to be dealt with according to law.

9.5. A Person shall not obstruct, interfere with, or hinder *Aiskapimohkiiks* or an Officer in carrying out their duties and responsibilities under this By-law.

10. OFFENCE

10.1. No person shall Abuse an *Omahkitapi* or Vulnerable Person.

- (a) A Respondent who:
- (b) Abuses an *Omahkitapi* or Vulnerable Person;
- (c) violates any provision of this By-law; or
- (d) permits any acts or things to be done in violation of this By-law,

commits an Offence under this By-law and is liable on summary conviction to a fine not exceeding \$1,000.00 or to a term of imprisonment not exceeding thirty (30) days, or to both a fine and imprisonment, in addition to any penalties to which a Respondent may

be subject to for contravention of any other Federal or Provincial legislation or regulation.

- 10.2. An Officer may lay a separate charge for each day an offence under this By-law is ongoing or for each separate offence.
- 10.3. An Officer may lay a separate charge for each separate Offence under this by-law, notwithstanding that such Offences may have been committed by the same Person, during the same timeframe.
- 10.4. Where a Person is in default of a payment of a fine under this By-law, the Nation may, in its sole and absolute discretion, withhold an amount payable by the Nation to such Person from time to time and shall apply such amount to the unpaid fine. The amount withheld by the Nation shall not to exceed the amount of the unpaid fine.
- 10.5. Nothing in this By-law precludes the Nation, or a victim of Abuse, from pursuing any other enforcement or remedy provided for in any other law or by-law.

PART IV – GENERAL

11. COUNCIL

- 11.1. The Council may delegate any of its powers, duties or functions under this By-law.
- 11.2. The Council, by Band Council Resolution, may make regulations for the proper administration of this By-law.

12. INTERPRETATION

- 12.1. Where this By-law refers to another act, regulation, or agency, it includes reference to any act, regulation or agency that may be varied, modified or replaced from time to time.
- 12.2. Words and phrases in this By-law importing the singular number only shall include the plural and vice versa, and words importing the masculine gender shall include the feminine gender and neutral.

13. SEVERABILITY

- 13.1. Should a Court determine that a provision of this By-law is invalid for any reason, the provision shall be severed from the By-law and the validity of the rest of the By-law shall not be affected.

14. CIVIL LIABILITY AND CRIMINAL LIABILITY UNAFFECTED

14.1. Nothing in this By-law affects the civil liability or criminal liability of a Person who contravenes any provision of this By-law.

15. OBLIGATIONS UNAFFECTED

15.1. Nothing in this By-law relieves a Person from complying with any applicable law, regulation, other Nation by-laws, or any requirements of any lawful permit, order or other direction.

16. AMENDMENT

16.1. This By-law may be amended from time to time by a Band Council Resolution. Any amendments shall come into force on the date of publication, in accordance with Subsection 86(4) of the *Indian Act*.

17. COMING INTO FORCE

17.1. This By-law comes into force on the date of publication, in accordance with Subsection 86(4) of the *Indian Act*.

THIS BY-LAW IS HEREBY passed at a duly convened meeting of the Council

this _____ day of _____, 2023.

Nioksskaistamik
Chief Ouray Crowfoot

Piitaisa'ksinam
Councillor Samuel Crowfoot

Councillor Owen Cranebear

Asinaipoka
Councillor Reuben Breaker

Kistsiponista
Councillor Kendall Panther Bone

Councillor Candace Backfat

Councillor Strater Crowfoot

Councillor Hector Winnipeg

Councillor Marsha Wolf Collar

Ksistsikomia'ki
Councillor Tracy McHugh

Councillor Lou Ann Solway

Kanaikito
Councillor Ike Solway

Councillor Carlin Black Rabbit

SCHEDULE "A"

OMAHKITAPI (ELDER) OR VULNERABLE PERSONS COMPLAINT

Complainant's Contact Information

Full Name: _____

Siksika Nation

Membership Number: _____

Address: _____

Telephone Number: _____

Mobile Phone Number: _____

Other Phone Number: _____

Email: _____

Please specify how you would like to be contacted in relation to this complaint:

- Mail
- Telephone
 - Do not leave a message
 - Message can be left

- Text
- Email

Name of *Omahkitapi* (Elder)/Vulnerable Person: _____

Information about *Omahkitapi* (Elder)/Vulnerable Person:

1. Does the *Omahkitapi* (Elder)/Vulnerable Person know you are making this complaint?
2. Are you related to the *Omahkitapi* (Elder)/Vulnerable Person?
3. Do you live with the *Omahkitapi* (Elder)/Vulnerable Person?
4. Is the *Omahkitapi* (Elder)/Vulnerable Person a Siksika Nation Citizen, if so, do you know their membership number?
5. What is the age of the *Omahkitapi* (Elder)/Vulnerable Person?

Name of Respondent (person the Complaint is against): _____

Information about Respondent:

1. Does the Respondent know you are making this complaint?
2. Are you related to the Respondent?
3. Do you or the *Omahkitapi* (Elder)/Vulnerable Person live with the Respondent?

4. Is the Respondent a Siksika Nation Citizen, if so, do you know their membership number?

5. What is the age of the Respondent?

Information about the Incident(s):

Please provide detailed information about the incident(s), including any witnesses to the event(s) and any documentation that you have, including photos, receipts, bank statements, etc. Please attach any additional pages as required:

I, _____ of _____ in the Province of Alberta, do solemnly declare that the information provided in this Complaint is true to the best of my knowledge.

I understand that signing a false solemn declaration may expose me to prosecution under Sections 131 and 132 or 134 of the *Criminal Code* and also to civil liability for defamation.

DECLARED before me at

This _____ day of _____

20__.

A Commissioner for Oaths

Notary Public in and for Alberta

Name: