



SIKSIKA NATION VICTIM SURCHARGE BY-LAW NO. 2023-XX

BY-LAW NO. _____

SIKSIKA NATION

SIKSIKA NATION VICTIM SURCHARGE BY-LAW

BEING A BY-LAW OF THE SIKSIKA NATION WITH A PURPOSE OF ESTABLISHING AND ENFORCING VICTIM SURCHARGES WITHIN THE SIKSIKA NATION RESERVE NO. 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*;

AND 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 establish a system for governance of its people, its land, and the Siksika Nation as a whole;

AND WHEREAS the Siksika Nation through time immemorial and to this day, has undertaken the observance and enforcement of traditional, customary, and contemporary laws of the Siksika Nation, along with the provision of support and assistance to those who are the victims of breaches of laws, in order to maintain *Pomiikapi* (peace and harmony);

AND WHEREAS the Siksika Nation continues to strive to ensure that matters related to the observance and enforcement of laws and victim support are carried out in a conscientious, culturally appropriate, respectful, peaceful and prompt manner for the benefit of Siksika Nation its people;

AND WHEREAS the Council of the Siksika Nation has, through its inherent right of self-government, the right to observe and enforce customary law, and to make and enforce laws for the protection of the Nation's, and its people's, interests;

AND WHEREAS in addition to its inherent right to self-government pursuant to Section 81 of the *Indian Act*, R.S.C. 1985, C. 1-5, a Council may make by-laws for any or all of the purposes set out in Section 81(1);

AND WHEREAS Council of the Siksika Nation deems it expedient and in the best interests of the Siksika Nation, and necessary for the benefit, comfort and safety of residents of the Siksika Nation Reserve #146 and for the protection of the Siksika Nation Reserve #146, to make a by-law for the purpose of regulating the process to collect victim surcharges and provide support

to victims of the Siksika Nation for the health and safety of residents and the prevention of nuisance to residents;

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

PART I - TITLE, DEFINITIONS AND INTERPRETATION

1. SHORT TITLE

1.1. This By-law may be known as the "*Siksika Nation Victim Surcharge By-law*".

2. DEFINITIONS

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

- (a) "***Aiskapimohiiks***" means the Siksika Justice Traditional Dispute Resolution Program, as varied, modified or replaced from time to time;
- (b) "**Band Council Resolution**" means a written resolution signed and adopted by a quorum of Council at a duly convened meeting;
- (c) "**By-law**" means this *Siksika Nation Victim Surcharge By-law*, unless specifically stated otherwise in this By-law;
- (d) "**Citizen**" means a citizen of the Nation under the *Siksika Nation Membership Code & Regulations*;
- (e) "**Council**" means the Council of Siksika Nation, comprised of the Chief and Councillors, duly elected from time to time in accordance with the *Siksika Nation Customary Election Code*;
- (f) "**Court**" means a Court of competent jurisdiction in the Province of Alberta, and includes a Tribal Court or any other First Nation or Indigenous Court acting under the inherent jurisdiction of an Indigenous Group;
- (g) "**Enactment**" means a Nation by-law or any enactment that is subsidiary to a Nation by-law;
- (h) "**fine**" includes a specified penalty;
- (i) "**Fund**" means the Siksika Victims and Public Safety Fund;
- (j) "**Victim Support Officer**" means the individual appointed by Council by way of a Band Council Resolution for the purposes of carrying out the terms of this By-Law;

- (k) **"Nation"** means the Siksika Nation;
- (l) **"Offence"** includes, without limitation:
 - (i) a failure to comply with a restriction, prohibition, requirement, rule, direction, order, provision, term or condition imposed by or under any Enactment of the Nation,
 - (ii) conduct that constitutes an offence under, or a violation of an Enactment,
 - (iii) conduct that is subject to sanction or punishment under an Enactment, and
 - (iv) any other action, conduct, or violation that is prescribed within this By-law, or within any other Enactment, as being an Offence for the purposes of this By-law;
- (m) **"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 this By-law or otherwise for maintaining law and order on the Reserve under the following:
 - (i) *Police Act*, RS.A 2000, c. P-17,
 - (ii) the *Siksika Peace Officer By-Law*, No. 2022-01
 - (iii) *Royal Canadian Mounted Police Act*, R.S.C., c. R-10,
 - (iv) *Security Services and Investigators Act*, S.A. 2008, c S-4.7,
 - (v) *Peace Officer Act*, S.A. 2006, c P-3.5, and
 - (vi) any by-law, regulation or other form of legislation enacted by Council;
- (n) **"Person"** includes, but is not limited to, an association, society, corporation, Indigenous Group, or a partnership, or any other entity or individual that the law regards as capable of having rights and duties;
- (o) **"public safety"** means the safety of life, health, culture, tradition, and property, the promotion of which is to ensure the health, comfort, stability, and safety of the residents of the Reserve, and to support and protect a conscientious, respectful, and safe environment for the Nation and its Citizens;
- (p) **"Reserve"** means the Siksika Indian Reserve No. 146, or any lands reserved for the Nation within the meaning of the *Indian Act*;

(q) “**victim**” means:

- (i) a Citizen, or any association, society, corporation, or partnership that is owned or operated by a Citizen or Citizens, that is injured as a direct result of a Person committing an act or omission that amounts to an Offence,
- (ii) with respect to grants relating to programs or initiatives intended to assist or support victims or to promote public safety, a Citizen who suffers a loss or injury as the result of a Person committing an act or omission that amounts to an Offence.

PART II – SIKSIKA VICTIMS AND PUBLIC SAFETY FUND

3. SURCHARGE

- 3.1. If a person is convicted under any Enactment of an Offence and a fine is imposed in respect of that Offence, a surcharge is payable by that Person in the amount set out in section 3.3 of this By-law.
- 3.2. If a Person is charged with an Offence under any Enactment and has their charge is redirected to *Aiskapimohiiks*, as part of any decision on sanction or sentence, *Aiskapimohiiks* may require the Citizen so charged to pay a surcharge into the Fund, in an amount that *Aiskapimohiiks* deems appropriate in the circumstances, but not to exceed \$200.00.
- 3.3. The amount of a surcharge that is paid into the Fund is:
 - (a) an amount that is equivalent to 20% of the fine, rounded down to the nearest dollar, that is imposed on a Person who commits an Offence under an Enactment; or
 - (b) where a Person is convicted under any Enactment of an Offence and no fine is imposed in respect of that Offence, a surcharge is payable by that Person in the amount of \$200.
- 3.4. Notwithstanding that a surcharge in subsections 3.1 to 3.3 of this By-law is not a fine, the amount of such a surcharge under these sections may be deemed a fine only for the sole and exclusive purpose of enforcing payment of the surcharge.
- 3.5. Notwithstanding any other Enactment, any payment made by or on behalf of a Person on whom a fine has been imposed in respect of an Offence is to be credited first to payment of the fine until it is fully paid and thereafter towards payment of the surcharge.

- 3.6. Notwithstanding any other Enactment, any payment made towards a surcharge, by or on behalf of a Person who has been convicted under any Enactment of an Offence must be deposited into the Fund.

4. FUND


- 4.1. The following must be deposited into the Fund:

- (a) money received as payment of a surcharge under this By-law;
- (b) money received as repayment of a grant under this By-law; and
- (c) money payable to the Nation under an agreement with the Government of Canada or Government of Alberta respecting assistance to victims that are approved by the Council for deposit in the Fund.

- 4.2. The Council holds and administers the Fund.

- 4.3. The income of the Fund accrues to and forms part of the Fund.

5. USE OF FUND

- 5.1. The Victim Support Officer  may, in accordance with this By-law, make payments from the Fund with respect to, but not necessarily limited to, the following:

- (a) grants relating to programs that assist or support victims or promote public safety;
- (b) without limiting the generality of subsection (a), grants relating to programs that provide counselling to vulnerable people who are victims of sexual exploitation or other criminal offences causing physical or mental harm;
- (c) programs and initiatives that benefit or reimburse victims or promote public safety;
- (d) costs incurred by the Victim Support Officer in carrying out its duties under this By-law;
- (e) remuneration and expenses payable to the Victim Support Officer;
- (f) costs incurred by *Aiskapimohiiks* in respect of hearing appeals of the Victim Support Officer's decisions;
- (g) remuneration and expenses payable to the members of *Aiskapimohiiks* in respect of hearing appeals of the Victim Support Officer's decisions; and
- (h) the costs of administering this By-law.

- 5.2. The Council may make payments from the Fund with respect to matters not enumerated in subsection 5.1 of this By-law so long as the purpose of such payments is intended to promote, advance, or maintain:
- (a) the safety of human life, human health, the property of the Nation or its Citizens, or the environment on the Reserve; or
 - (b) the prevention of contraventions being committed on the Reserve.

PART III - GRANTS AND PROGRAMS

6. APPLICATION FOR GRANT

- 6.1. In this Part, “**Siksika Person**” means either a Citizen or any corporation or entity that is either owned by a Citizen, or is an entity or organization that forms part of the Siksika Nation Administration, or is a Related Body of Siksika Nation.
- 6.2. A Siksika Person may apply in a form acceptable to the Victim Support Officer for a grant respecting the following:
- (a) the development or creation of a program or initiative that benefits Citizens who are victims of crime or promotes public safety on the Reserve; or
 - (b) the development or creation of a program that consists of services that benefit Citizens who are victims or a class or classes of victims during those victims’ involvement with the Nation’s justice process.
- 6.3. In addition to the information required in any application under subsection 6.2 of this By-law in the form specified for such application, the Siksika Person applying for the grant must provide any other information that may be requested by the Victim Support Officer, subsequent to receiving and reviewing the application.
- 6.4. On receipt of an application in respect of a grant, and subject to the Victim Support Officer requiring any further information from the applicant under subsection 6.3 of this By-law, the Victim Support Officer must determine, in accordance with this By-law, whether the Siksika Person is eligible for the grant and, if so, the amount of the grant, if any.
- 6.5. No Siksika Person shall make a false or misleading statement in an application for a grant.
- 6.6. Where a Siksika Person has been found to have intentionally made a false or misleading statement in an application for a grant, the Victim Support Officer may deny the application for the grant.

7. AGREEMENT

- 7.1. The Victim Support Officer may, at any time, require the Siksika Person applying for a grant to enter into a written agreement with respect to the terms and conditions of a grant, reporting on the activities and operations of the program or initiative for which a grant is being paid, and any matter relating to the payment or repayment of a grant.

8. PAYMENT OF GRANT

- 8.1. If the Victim Support Officer authorizes the payment of a grant, the grant may, in accordance with the authorization, be paid:
- (a) in a lump sum or in instalments; and
 - (b) at the time or times specified by the Victim Support Officer.

9. CONDITIONS OF GRANT

- 9.1. A Siksika Person who receives a grant must use the grant:
- (a) only for the program or initiative as described and the limits set out in the application and authorized by the Victim Support Officer; or
 - (b) if the original program or initiative as described and the limits set out in the application is varied and the variation is agreed to by the Siksika Person and by the Victim Support Officer, only for the program or initiative as varied.
- 9.2. If a grant is not used by a Siksika Person in accordance with subsection 9.1 of this By-law the Victim Support Officer may require that the Siksika Person repay the grant in whole or in part to the Fund.
- 9.3. If a grant that was approved is later found out to have been approved on the basis of intentionally false or misleading information or statements made in an application, the Victim Support Officer may require that the Siksika Person who made the application repay the grant in whole or in part to the Fund.
- 9.4. If a Siksika Person does not use all the grant paid to that Siksika Person for the program referred to in subsection 9.1 of this By-law, that Siksika Person must return the unused portion of the grant to the Fund unless otherwise directed by the Victim Support Officer.
- 9.5. Where a Siksika Person is required to repay or return the whole of a grant, or any portion thereof, to the Fund under any of subsections 9.2 to 9.4, interest shall begin to accrue on that amount required to be returned or repaid, from the date so ordered by the Victim Support Officer, at a rate of 21% per annum.

10. ACCOUNTING FOR THE USE OF GRANT

- 10.1. A Siksika Person who receives a grant must, when required by the Victim Support Officer, provide evidence in a form and manner satisfactory to the Victim Support Officer of how the grant was used.

11. VICTIM SUPPORT OFFICER'S DECISION REGARDING GRANTS

- 11.1. After making a decision under subsection 6.4 of this By-law, the Victim Support Officer must:

- (a) provide the Siksika Person who applied for the grant with a copy of the decision and reasons for the decision in writing; and
- (b) advise the Siksika Person in writing who applied for the grant that they may, within fourteen (14) days of receipt of the decision, file a written notice of appeal of the Victim Support Officer's decision to Council setting out the reasons for the appeal.

- 11.2. Upon receipt of a written notice of appeal pursuant to subsection 11.1 of this By-law:

- (a) Council shall refer the dispute to *Aiskapimohkiiks* along with a copy of the notice of appeal, within seven (7) days of receipt of such notice;
- (b) *Aiskapimohkiiks* shall hold a hearing within thirty (30) days following the receipt of the appeal notice from Council;
- (c) after hearing from the Siksika Person who applied for the grant and the Victim Support Officer and anyone else having relevant information, *Aiskapimohkiiks* may confirm or vary the Victim Support Officer's decision; and
- (d) *Aiskapimohkiiks* shall issue its decision in writing to Council, the Victim Support Officer, and the Siksika Person who applied for the grant within fourteen (14) days of the hearing being closed.

12. COUNCIL LED PROGRAMS AND INITIATIVES

- 12.1. Council may, upon its own initiative and under its own discretion, use monies from the Fund to directly develop programs, organizations, groups, or any other project that is designed to:

- (a) assist Citizens who are victims of contraventions;
- (b) promote public safety on the Reserve and for all Citizens regardless of their location; and
- (c) prevent contraventions from being committed on the Reserve.

- 12.2. Any decision of Council to use monies from the Fund pursuant to subsection 12.1 of this By-law shall only be made by way of Band Council Resolution.
- 12.3. Any monies paid out of the Fund under this section shall be reported to the Victim Safety Officer for the purposes of permitting the Victim Safety Officer to record such payments pursuant to subsection 13.2(g) of this By-law.

PART IV - ADMINISTRATION AND ENFORCEMENT

13. VICTIM SUPPORT OFFICER

- 13.1. The Victim Support Officer or their designate is responsible for the administration of this By-law.
- 13.2. Without restricting any other power, duty or function granted by this By-law, the duties and functions of the Victim Support Officer include:
- (a) providing victims and their families with general information concerning:
 - (i) the structure and operation of this By-Law and its operations, and
 - (ii) the availability of victim services in relation to Offences of Enactments;
 - (b) establish forms for the purposes of this By-law;
 - (c) in accordance with this By-law, evaluating applications for grants relating to programs or initiatives intended to assist or support Citizens who are victims or to promote public safety;
 - (d) making information publicly available with respect to programs and services that assist or support victims or promote public safety;
 - (e) undertaking other duties related to the administration of this By-law;
 - (f) keeping full records and accounts in respect of the following:
 - (i) all applications made and the decisions of the Victim Support Officer in respect to those decisions,
 - (ii) all appeals of decisions made by the Victim Support Officer and the results of those appeals,
 - (iii) monies paid into the Fund, and the source of those monies,

- (iv) all payments made to Siksika Persons for grants, including information as to who the payments were made to, the amounts paid, and the dates on which those amounts were paid,
 - (v) all other payments made from the Fund pursuant to section 5 of this By-law that were not paid out in the form of grants, and
 - (vi) all monies returned to the Fund under any of sections 9.2 to 9.4, along with the reason for the return of such monies;
 - (g) providing quarterly reports, as based on a calendar year commencing on January 1st of each year, to Council as to all payments into the Fund and all payments made from the Fund along with a full accounting of to whom the payments were made and for what purpose, with sufficient details for Council to be able to properly review the payments; and
 - (h) any other duties assigned by the Council.
- 13.3. Where the Victim Support Officer has a relationship with any Siksika Person that would constitute a conflict of interest, as defined by the *Siksika Nation Administration Personnel Policies and Procedures*, and that Siksika Person has:
- (a) made an application for a grant;
 - (b) appealed a decision in relation to an application for a grant;
 - (c) received monies from the Fund; or
 - (d) returned or repaid monies into the Fund,
- the Victim Support Officer shall report such conflict of interest in their quarterly reports alongside the reporting of the above information.
- 13.4. The Victim Support Officer may delegate any of their powers and authorities under this By-law to any Nation employee, contractor, or any organization as the Victim Support Officer deems appropriate, provided that the Victim Support Officer shall at all times remain accountable to ensure that the power and authorities under this By-law are carried out properly.

14. COLLECTION OF INFORMATION

- 14.1. The Victim Support Officer is authorized to collect information, including personal information that the Victim Support Officer reasonably believes is necessary, for the purpose of determining the eligibility of an application for a grant, or the appropriate amount of a grant.

- 14.2. Subject to any restrictions on the disclosure of information as provided for in any other act or regulation, the Victim Support Officer is authorized for the purposes of subsection 14.1 of this By-law to collect and use information, including personal information, from:
- (a) a public body as defined in the *Freedom of Information and Protection of Privacy Act*, RSA 2000, c F-25, to determine or verify whether a Person is eligible for a benefit under this By-law; and
 - (b) any other Nation entity, corporation, or Related Body for the purposes of obtaining information that would reasonably assist the Victim Support Officer in assessing the eligibility of an application for a grant.
- 14.3. Where the Victim Support Officer is seeking information from a Citizen, or a Nation entity, corporation, or Related Body, pursuant to subsection 14.2 of this By-law, such Citizens, or Nation entities, corporations, or Related Bodies are authorized to provide information, including personal information, to the Victim Support Officer for the purpose of determining whether a an application for a grant meets the eligibility requirements under this By-law.
- 14.4. The Victim Support Officer may disclose information, including personal information, collected under this By-law to any Person for the purpose of determining whether a an application for a grant meets the eligibility requirements under this By-law or the appropriate amount of that grant.
- 14.5. After a grant has been paid to a Siksika Person, the Victim Support Officer shall continue to have the right to obtain information, as set out in subsections 14.1 and 14.2 of this By-law, in respect of the grant paid, for the purposes of determining whether the grant is being used for the purposes of the program or initiative for which it was paid, and whether that program or initiative continues to meet the eligibility requirements under this By-law.

15. INFORMATION FOR CITIZENS

- 15.1. The Victim Support Officer shall maintain an up-to-date record of all grants paid from the Fund, including:
- (a) the program or initiative to which the grant was paid and the general purpose for the grant;
 - (b) the amount of the grant paid to each program or initiative;
 - (c) the Siksika Person responsible for the program or initiative to which the grant was paid; and

- (d) any grants repaid to the Fund pursuant to any of subsections 9.2 to 9.4 of this By-law, along with the amounts repaid and the program or initiative from which the grants were repaid.
- 15.2. The record described in subsection 15.1 of this By-law shall be posted on the Nation's website, and the Victim Services Officer shall ensure that as the record in subsection 15.1 is updated, so shall that updated information be posted to Nation's website at the earliest opportunity.

16. OFFENCE

- 16.1. Any Person who contravenes or violates any provision of this By-law is guilty of an offence under this By-Law.

17. GENERAL PENALTY PROVISIONS

- 17.1. A Person who:
 - (a) contravenes or violates any provision of this By-Law;
 - (b) permits any act or things to be done in violation of this By-law;
 - (c) neglects to do or refrains from doing any act or thing required to be done under the provisions of this By-law, or required to be done pursuant to a direction of an Officer made under the authority of the By-law; or
 - (d) fails to comply with any direction, order, or prohibition issued under 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 a term of imprisonment not exceeding thirty (30) days, or both a fine and imprisonment.
- 17.2. If a Person is convicted of an offence under this By-Law, any benefit or grant paid to that Person under this By-law may be recovered by the Council as a debt due to the Nation.
- 17.3. Each time an offence occurs, or where an offence is of a continuing nature, each day or part of a day on which it continues, constitutes a separate offence.
- 17.4. Further to subsection 17.3 and for greater certainty, an Officer may lay a separate charge for each separate violation of this By-Law, notwithstanding that such violations may have been committed by the same Person, during the same time frame.
- 17.5. The levying and payment of any fine pursuant to this By-law shall not relieve a Person from the necessity of paying any fees, charges or costs for which the Person is liable under the provisions of this By-law.

- 17.6. Where a Person is in default of payment of a fine or any other fees, charges or costs under this By-law, Council may, in its sole discretion as it deems appropriate, withhold an amount payable by it to such Person from time to time not to exceed the amount of the unpaid fine, fee, charge or cost, and shall apply such amount to the unpaid fine, fee, charge or cost, as the case may be.
- 17.7. In addition to all other penalties provided herein, any Person causing damage or loss to any Nation property within the Reserve as a result of an offence under this By-law shall be responsible for the cost of repairing or replacing such damage or loss.
- 17.8. Nothing in this By-law precludes the Nation from pursuing any other enforcement or remedy provided for in any other law or by-law.

PART VIII — GENERAL

18. MISCELLANEOUS

- 18.1. Nothing in this By-law relieves a Person from complying with any applicable law, regulation, other enactment or by-law or any requirements of any lawful permit, order, consent or other direction.
- 18.2. Where this By-law refers to another enactment, act, regulation or agency, it includes reference to any enactment, act, regulation or agency that may be substituted therefore.
- 18.3. Every provision of this By-law is independent of all other provisions, if any provision of this By-law is declared invalid for any reason by a Court, all other provisions of this By-law shall remain valid and enforceable.
- 18.4. It is the intention of Council that all offences created by this By-law be interpreted to be strict liability offences.
- 18.5. 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 neuter.

19. CIVIL ACTION NOT AFFECTED

- 19.1. Nothing in this By-law limits the right of any Citizen to prosecute a claim for damages by reason of injuries to that Citizen or their property resulting from any Offence of an Enactment committed by another Person.
- 19.2. For greater certainty, neither eligibility for benefits, or the receipt of benefits shall limit the rights of any victim to prosecute a claim for damages against a Person convicted of a

Offence, even where the act or omission of the Person convicted of a Offence and the injuries arising from such act or omission are the same act or omission and injuries that caused the damages making up any civil claim.

20. EFFECTIVE DATE

20.1. 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