



SIKSIKA NATION EMERGENCY MEASURES AND CURFEW BY-LAW
NO. 2020-01

BY-LAW NO. 2020-01
SIKSIKA NATION

BEING A BY-LAW OF THE SIKSIKA NATION WITH A PURPOSE OF ESTABLISHING AND ENFORCING EMERGENCY MEASURES ON THE SIKSIKA NATION RESERVE NO. 146.

WHEREAS the Siksika Nation has and continues to exercise an inherent Aboriginal and Treaty Right of Self-government that is recognized and affirmed by Articles 34 and 35 of the *United Nations Declaration on the Rights of Indigenous Peoples*, Section 35 of the *Constitution Act, 1982, Schedule B to the Canada Act 1982 (UK)*, 1982, c 11 and is protected by Blackfoot Treaty No. 7, 1877; and

WHEREAS on March 16, 2020, Council of the Siksika Nation declared a state of local emergency due to the novel coronavirus, COVID-19, pandemic; and

WHEREAS Canada's Chief Public Health Officer and Alberta's Chief Medical Officer of Health (collectively, the "**Public Health Authorities**") have made orders and recommendations designed to prevent and reduce the spread of COVID-19, including requiring physical distancing, and isolation in certain circumstances, and limiting the size of gatherings; and

WHEREAS pursuant to Section 81 of the *Indian Act*, RSC 1985, c I-5 (the "*Indian Act*"), 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 paragraphs 81(1)(a), (c), (d), (p), (q) or (r); and

WHEREAS Council of the Siksika Nation enacted the *Siksika Nation Curfew By Law ("By-law No. 2003-01")* on May 12, 2003; and

WHEREAS Council of the Siksika Nation deems it expedient and in the best interests of the Siksika Nation to repeal *By-law No. 2003-01* and to make a by-law for the purposes of:

- a) securing the health and safety of individuals attending at or residing on the Siksika Nation reserve lands; and
- b) encouraging the observation of law and order.

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 "Emergency Measures and Curfew By-law".

2. DEFINITIONS

1.1 In this By-law, unless otherwise defined herein:

- (a) **“By-law”** means this Emergency Measures and Curfew By-law;
- (b) **“Council”** means the Council of Siksika, comprised of the Chief and Councillors, duly elected from time to time in accordance with the *Siksika Nation Customary Election Code*;
- (c) **“COVID-19 Symptoms”** may include but is not limited to:
 - (i) fever;
 - (ii) cough (new cough or worsening chronic cough);
 - (iii) shortness of breath or difficulty breathing (new or worsening);
 - (iv) runny or stuffy nose;
 - (v) chills;
 - (vi) fatigue or weakness;
 - (vii) muscle or body aches;
 - (viii) new loss of smell or taste;
 - (ix) headache;
 - (x) sore throat;
 - (xi) gastrointestinal symptoms (abdominal pain, diarrhea, or vomiting); and
 - (xii) feeling very unwell;
- (d) **“Curfew Period”** means the period of time between 11:00 p.m. MT and 5:00 a.m. MT;
- (e) **“Dwelling”** means any house, apartment, mobile home, or a room located therein, or any similar lodging suitable for habitation;

- (f) “**Essential Service**” means those services and functions considered essential to preserving life, health, law and order, and basic society functioning, including but not limited to, the functions performed by first responders, health care workers, critical infrastructure workers, and workers who are essential to supply critical goods such as food and medicines;
- (g) “**Offence**” means an offence under this By-law;
- (h) “**Peace Officer**” means a peace officer, police officer, member of the Royal Canadian Mounted Police, by-law officer employed by Siksika or any person appointed by Council by way of a band council resolution for the purpose of enforcing and carrying out the provisions of this By-law;
- (i) “**Public Place**” means any part of the Reserve that is not used or occupied as a Dwelling;
- (j) “**Referral Notice**” means a referral notice in the form prescribed by the Tribal Administration Senior Officer from time to time;
- (k) “**Reserve**” means the geographic area of the Siksika Nation Indian Reserve No. 146;
- (l) “**Resident**” means a person who is ordinarily resident on the Reserve;
- (m) “**Siksika**” means the Siksika Nation; and
- (n) “**Tribal Administration Senior Officer**” means the person appointed as the tribal administration senior officer or their delegate.

2.2 In this By-law, unless otherwise expressly stated or the context requires otherwise, any reference to a section or subsection is to such section or subsection of this By-law.

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

- (a) words importing the singular number shall include the plural number and *vice versa*, and words importing any gender shall include all genders and the neuter; and
- (b) any reference to a statute shall include the statute and any regulations made pursuant thereto, all amendments to the statute or any such regulations in force from time to time and any statute or regulation which supplements or supersedes the statute or any such regulations.

PART II – IMPLEMENTATION OF CURFEW

3. PROHIBITION

3.1 No person shall be in a Public Place during the Curfew Period unless the person is:

- (a) travelling to or from, or at, their place of employment;
- (b) performing an Essential Service; or
- (c) attending to an emergency.

3.2 A Resident shall remain in their ordinary place of residence during the Curfew Period, unless the Resident is:

- (a) travelling to or from, or at, their place of employment;
- (b) performing an Essential Service; or
- (c) attending to an emergency.

4. POWERS OF PEACE OFFICERS

4.1 If a person, other than a person authorized under subsections 3.1(a), (b) or (c), is in a Public Place during the Curfew Period, a Peace Officer may take the following immediate actions:

- (a) in the case of a Resident, direct the person to immediately return to their residence;
or
- (b) in the case of a non-Resident, direct the person to immediately vacate the Reserve.

4.2 If:

- (a) a Resident fails to comply with the direction in subsection 4.1(a); or
- (b) a non-Resident fails to comply with the direction in subsection 4.1(b);

then the Peace Officer may use reasonable force as is necessary to escort such person to their residence, in the case of a Resident, or off the Reserve, in the case of a non-Resident.

4.3 As soon as practicable after a Peace Officer escorts a person to a location under section 4.2, as applicable, they shall submit to the Tribal Administration Senior Officer a written report setting out:

- (a) the address or other description sufficient to identify the location to which the Peace Officer escorted the person;
- (b) the name of the person(s) escorted and any other relevant person(s), if applicable;
- (c) the basis for escorting the person to a location;
- (d) any particulars of the applicable Offence; and
- (e) any other matter that the Peace Officer considers necessary or advisable.

- 4.4 Without restricting any other power, duty or function granted by this By-law, the Peace Officer may:
- (a) request any information or documents, that are reasonably required to determine compliance with this By-law; and
 - (b) delegate any of its powers and authorities under this By-law to any person or organization as the Peace Officer deems appropriate, provided that the Peace Officer shall at all times remain accountable to ensure that the power and authorities under this By-law are carried out properly.

PART III – PREVENTATIVE AND PROTECTIVE MEASURES

5. PREVENTATIVE MEASURES

5.1 The following preventative measures are in force on Reserve:

- (a) any Resident who:
 - (i) has returned to or entered the Reserve from outside Canada,
 - (ii) is a close contact of someone with COVID-19, or
 - (iii) is experiencing any of the COVID-19 Symptoms,is required to notify Siksika Health Services and isolate for a minimum period of fourteen (14) days; and
- (b) any Resident who has tested positive for COVID-19 must notify Siksika Health Services, follow recommended treatment and abide by strict isolation measures until a medical test confirms that such Resident has recovered fully and is no longer infected with COVID-19.

6. PROTECTIVE MEASURES

6.1 Council may, at its sole discretion, make orders:

- (a) regarding closure or restrictions on access to community facilities or public buildings located on Reserve, including but not limited to educational institutions, playgrounds, recreational facilities, community halls, wellness centres, places of worship, tribal administration buildings and cultural buildings;
- (b) restricting the hours of operation and number of persons entering businesses or other premises on Reserve; and
- (c) imposing additional preventative and protective measures that are more stringent than an order, recommendation or guideline issued by a Public Health Authority if Council determines that such additional measures are necessary to protect the health

and safety of Nation members or the public. Any such additional measures shall be deemed to form part of this Bylaw and a person who fails to comply with such measures shall be guilty of an Offence.

- 6.2 All persons on Reserve must strictly comply with the applicable gathering restrictions imposed from time to time by the Public Health Authorities and Siksika Health Services.
- 6.3 Council may, in its sole discretion, approve of a gathering of more people than as mandated by the Public Health Authorities or Siksika Health Services if the individuals in attendance are complying with any requirements imposed by Council in respect of such gathering.
- 6.4 All persons present on Reserve must strictly comply with any order or recommendation of the Public Health Authorities and Siksika Health Services made in relation to the COVID-19 pandemic from time to time, including but not limited to orders and recommendations related to the following:
 - (a) travel restrictions;
 - (b) isolation or quarantine;
 - (c) staying home;
 - (d) restriction of visitors;
 - (e) social or physical distancing; and
 - (f) wearing face masks or other personal protective equipment when in a Public Place.
- 6.5 To the extent that there is any conflict or discrepancy between an order, restriction or recommendation of the Public Health Authorities and Siksika Health Services, the more stringent order, restriction or recommendation shall apply under this Part III.

PART IV – ENFORCEMENT

7. ENFORCEMENT – OFFENCES AND PENALTIES

- 7.1 A person who contravenes sections 3.1 or 3.2 is guilty of an Offence and liable on summary conviction to a fine of not more than one thousand (\$1,000.00) dollars in accordance with the fine schedule attached as Appendix “A” hereto or to imprisonment for a term of not more than thirty (30) days, or both.

8. ENFORCEMENT – VOLUNTARY PAYMENT TICKET

- 8.1 The Peace Officer is hereby authorized and empowered to issue a voluntary payment ticket to any person who the Peace Officer has reasonable and probable grounds to believe has committed an Offence. For greater clarity, a voluntary payment ticket shall be issued to a person who has committed an Offence prior to the person being prosecuted for the Offence under this By-law.

- 8.2 A voluntary payment ticket may be issued to such person:
- (a) either personally; or
 - (b) by mailing a copy to such person at their last known postal address.
- 8.3 The voluntary payment ticket shall state:
- (a) the name of the person;
 - (b) the date and nature of the Offence;
 - (c) the appropriate penalty for the Offence as specified by the Tribal Administration Senior Officer from time to time;
 - (d) that the penalty shall be paid within thirty (30) days of the issuance of the voluntary payment ticket; and
 - (e) any other information as may be required by the Peace Officer.
- 8.4 Where an Offence is of a continuing nature, further voluntary payment tickets may be issued by the Peace Officer provided that no more than one (1) voluntary payment ticket shall be issued for each calendar day that the Offence continues.
- 8.5 Where a voluntary payment ticket is issued pursuant to this By-law, the person to whom the voluntary payment ticket is issued may, in lieu of being prosecuted for the Offence, pay to Siksika the penalty specified on the voluntary payment ticket within thirty (30) days of receipt of the voluntary payment ticket.

9. ENFORCEMENT – OTHER

- 9.1 Where this By-law has been contravened and a conviction entered, in addition to any other remedy and to any penalty imposed by this By-law, the court or judge in which the conviction has been entered, and any court of competent jurisdiction or judge thereafter, may make an order prohibiting the continuation or repetition of the Offence by the Person convicted.
- 9.2 Where this By-law has been contravened, in addition to any other remedy and to any penalty imposed by this By-law, such contravention may be restrained by court action at the instance of the Council.
- 9.3 Where a person is in default of payment of a fine or any other fees, charges or costs under this By-law, Siksika 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.

PART V – GENERAL

10. MISCELLANEOUS

- 10.1 It is the intention of Council that all Offences be interpreted to be strict liability offences.
- 10.2 Nothing in this By-law relieves a person from complying with any other applicable law, including any applicable statute, regulation, law, code, judgement or order.
- 10.3 In the event of any inconsistency or conflict between this By-law and any other Siksika by-law this By-law shall prevail to the extent of the inconsistency or conflict.
- 10.4 If any provision of this By-law is determined by a court of competent jurisdiction to be invalid, illegal or unenforceable, in whole or in part, such determination shall not impair or affect the validity, legality or enforceability of the remaining provisions of this By-law.
- 10.5 This By-law may be amended by Council, at a duly convened meeting of the Council, in accordance with the traditions and customs of Siksika.

11. REPEAL

- 11.1 The Siksika Nation *By-law No. 2003-01* is hereby repealed in its entirety.

12. AMENDMENT

- 12.1 This By-law may be amended by resolution of Council.

13. EFFECTIVE DATE AND TERM

- 13.1 This By-law comes into force on the date of publication in accordance with Subsection 86(4) of the *Indian Act* and shall be repealed by Council on the date that Council declares that the state of local emergency due to the novel coronavirus, COVID-19, pandemic is over.

This By-law is hereby passed at a duly convened meeting of the Council of the Siksika Nation this 4th day of January, 2021.



Councillor Carlin Black Rabbit



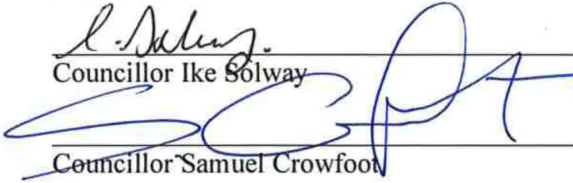
Chief Oray Crowfoot



Councillor Armond Duck Chief

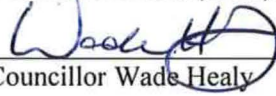


Councillor Ike Solway



Councillor Samuel Crowfoot

Councillor Ruben (Buck) Breaker



Councillor Wade Healy

Councillor Sue Solway



Councillor Jenny Goodin

Councillor Tracy McHugh



Councillor Kendall Panther Bone



Councillor Kent Ayongman



Councillor Leon Crane Bear



APPENDIX "A"

FINE SCHEDULE

<u>OFFENCE</u>	<u>Section</u>	<u>Fine</u>
<u>Breach of Curfew</u>	Sections 3.1 and 3.2	
First offence		\$250.00
Second offence		\$500.00
Third offence and subsequent offences		\$1,000 or 30 days imprisonment or both