

SPIRIT LAKE LAW AND ORDER CODE
Title 21: WODAKOTA: TRADITIONAL COURT ORDINANCE

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§21-1-101 Authority and Purpose.

The purpose of Title 21 of the Spirit Lake Tribe Law and Order Code is to establish a Wodakota: Traditional Court to provide a non-adversarial alternative for the resolution of disputes and issues and to use culturally appropriate mediation to reach conciliatory results rather than court-imposed sanctions where appropriate. The Title is also intended to provide formal recognition, support, structure and enforcement to traditional Tribal methods of resolving disputes and issues. This Title shall be interpreted liberally and formally with the goal of providing a fair, informal, cost-effective and traditional means of resolving disputes and issues. Upon adoption this Title shall become part of the Spirit Lake Tribe Law and Order Code.

§21-1-102 Codification.

This ordinance shall be codified pursuant to Title 1, Chapter 3, §101.

§21-1-103 Title.

Title 21 is hereby known as the Wodakota: Traditional Court Title.

§21-1-104 Philosophy.

It is the goal of The Wodakota: Traditional Court to promote the “Wodakota” way in our dealings with the people of the Spirit Lake Nation. We will use this philosophy in order promote healing and wellbeing. When people are out of balance, they are opposite of the “Wodakota” way. As Dakota people, we need to strive to become “Wodakota” in our dealings with ourselves, Creator and our relatives. By reconnecting the circle in a peaceful way. In this way we will help each other. The Wodakota: Traditional Court involves:

- (1) Discussing issues in a respectful manner.
- (2) Assisting individuals with understanding and accepting responsibility for their actions.
- (3) Promoting healthy relationships and a healthy community.
- (4) Encouraging people to solve their own problems in a safe environment.
- (5) Working with participants to plan and make collaborative decisions about future actions.
- (6) Assisting in the development of Peacemaking compacts to the resolution of disputes and issues that are not patterned upon state or federal courts but are more closely allied to traditional, culturally appropriate Tribal mediation processes.

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§21-1-105 Tribal Prayer.

The Tribal Prayer adopted by elders of the Spirit Lake Nation is herein incorporated and included as a guideline for the Peacemaking Process defined in this Title. The prayer is in both English and Dakota.

A DAKOTAH PRAYER **Dakod wocekiya wan**

Grandfather, Great Spirit, You have been always,
and before you nothing has been,
there is no one to pray to but You,
Wakan Tanka, Tunkansina, owihanke wanin,
nakun Nisnana tokatakeya niyaun
niye ece'na unwocekiyapi

The stars all over the heavens are Yours,
and Yours are the grasses of the earth,
Wicanhpi Oyate Mahpiya owasina nitawa
Unci Make wato iza

You are older than all need,
older than all pain and prayer,
Wocekiya ga woyanzan owasina tokapa niyaun,

Grandfather, Great Spirit, look upon Your children,
Wakan Tanka, Tunkansina, Mniwakan cinca Nitawa ahintonwan,

That they may face the winds and walk
The Good road to the day of Quiet....

Tate iteayutapikta nakun
Canku waste inina ekta omanipte,

Grandfather. Great Spirit, fill us with the light.
Give us the strength to understand
and the light to see.

Wakan Tanka, Tunkansina, iyoyanpaya ohnaehnakapo
Ista on awanyake unkupo
Nakun Wowas'ake iza okahnigappedo

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Teach us to walk the soft earth as relatives

With all that live,

Takuyapi owasina uncimaka akon panpanzina omanipte heced onspekiyapiwo

Help us , for we are nothing without You,

we are nothing...

Waokiyapo, niyes tankansni kahan

unkiza untankanptesni....

Amen

Hecedtu nuwe

§21-1-106 Dakota Values.

The following list identifies primary Dakota values.

- (1) Generosity (Wowastecaka): Dakota People share their material possessions, time, attention, and wisdom freely. Because all members of creation are relatives, this sharing takes place without discrimination based upon human-created, artificial categories such as race, age, religion, social power, etc.
- (2) Courage or Bravery (Wowaditaka): Ever since the Europeans began settling North America, taking Dakota land and subsequently failing to pay for it, Dakota people had to defend their liberty, land, families and communities. By doing so, they demonstrated bravery, patriotism, battle-hardened heroism and martyrdom.
- (3) Honesty (Wowicaka): Telling the truth to yourself, the Creator and other people even when it is difficult.
- (4) Mother Earth (Ina Maka): Mother Earth is simultaneously a spiritual and physical entity. She nurtures her children; all of the creatures on the earth, including humans.
- (5) Kinship: Frequent use of the term “mitakuyapi,” or “relatives,” reveals one of the most deeply held theological underpinnings of Dakota interactions. Further, the Dakota teach that we are related to all living creation, not just other humans. Continual application of this value promotes respect, love and honor toward animals, birds, fish, creeping things and other humans.
- (6) Wisdom (Woksape): It takes wisdom to say and do the right thing in a given situation. Generally, it takes experience to learn what to say and do. This is why the Elders are revered.

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- (7) Respect (Wo'-o-ho-da): Dakota people in general believe that it is not appropriate to stand in judgment of someone else's dream or vision. Similarly, it is not necessary to impose one's opinion or vision on anybody else unless it would impact other community members.

§21-1-107 Definitions.

The following words shall have the following meanings under this Title.

- (1) "Chief Judge" means the Chief Judge of the Tribal Court of the Spirit Lake Tribe. The Chief Judge is the Administrator of the Tribal Court and has the authority to assign cases to the associate judges and special judges.
- (2) "Civil Conflict" means a conflict between two or more parties over money, property, damages, harm, rights, interests, responsibilities, or any other matter that is not criminal in nature.
- (3) "Conflict of Interest" means any situation in which a Peacemaker is asked to mediate a matter in which a close family member is a part of, or in which the Peacemaker has a personal or financial interest, unless the issue is an intra-familial dispute where family involvement is necessary.
- (4) "Dispute" means any civil conflict or any case brought to the Tribal Court involving two or more parties who are contesting their legal rights and responsibilities in any circumstance that is not criminal in nature.
- (5) "General Assembly" means the Spirit Lake Tribe's General Assembly.
- (6) "Indian Country", the "territorial jurisdiction" or the "jurisdiction" of the Tribe means all lands within the Reservation of, owned by, held in trust for, leased, occupied or otherwise controlled by the Tribe, as well as any such ownership or use by an entity of the Tribe. Those terms shall include any and all areas which may constitute the "Indian Country" of the Tribes under applicable provisions of its laws or the laws of the United States.
- (7) "Juvenile Matter" means any case where a Tribal member who is less than eighteen (18) years of age has been arrested and/or charged with committing acts that would be crimes if committed by an adult or with status offenses (acts that are criminal due to the age of the minor, such as minor in possession of alcohol and truancy).
- (8) "Member" or "Tribal Member" means a member of the Spirit Lake Tribe, either by Tiospaye, descendency or enrollment.

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- (9) "Peacemaking Circle" means a Spirit Lake Tribal traditional technique from our past to help the community and those affected by our current judicial system. By using a Circle approach we will respectfully engage in open communication among participants. A talking piece is passed clockwise to create open communication amongst the circle. A Peacemaker will lead the circle discussion allowing everyone to have an equal say. The Peacemaker will create a respectful space for everyone to be heard and help the "Peacemaking Circle" come to an agreement on the issue at hand. This process will be used as an alternative to the current court procedures. We will use wisdom from our elders, spiritual leaders and community members in the "Peacemaking Circles" process to help resolve conflicts through mediation and serve as an alternative sentencing route for youth offenders.
- (10) "Peacemaking compact," for the purpose of this Ordinance only, means a written document which contains a statement of a dispute between parties to a case in the Tribal court or the facts underlying a Civil Matter, and which also contains a statement describing the settlement or resolution to the matter which is mutually agreed to by the parties. It shall be signed by the individuals involved in the dispute or the Civil Matter, and by the Peacemaker, and where the parties intend it to be an order and judgment of the Tribal Court, signed by the Chief Judge.
- (11) "Person" means an individual natural person, trust, firm, association, partnership, limited liability company, public or private corporation, political subdivision, government agency, municipality, industry, and any entity whatsoever, and includes the Tribe.
- (12) "Spirit Lake Tribe" means the Spirit Lake Tribe of Fort Totten, North Dakota, a federally recognized Indian Tribe.
- (13) "Tiospaye" means "member of the family" and shall mean a father, mother, brother, sister, spouse, son, daughter, grandchild, grandparents, mother-in-law, father-in-law, brother-in-law, sister-in-law, aunt, uncle or first cousin.
- (14) "Traditional Court Coordinator" means the individual hired to coordinate and direct the Wodakota: Traditional Court and its programs. Duties of the Traditional Court Coordinator are defined both in the current job description developed and adopted by the Spirit Lake Tribe and within this Title. The Traditional Court Coordinator may serve as a Peacemaker.
- (15) "Tribal Chairman" means the Spirit Lake Tribe's Tribal Chairman. The Tribal Chairman has the authority to contract with the Peacemakers.
- (16) "Tribal Council" means the Spirit Lake Tribe's Tribal Council.
- (17) "Tribal Court" means the Tribal Court of the Spirit Lake Tribe.
- (18) "Tribal Judge" means Chief Judge, Associate Judge and Special Judges.

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- (19) “Wodakota: Traditional Court” means the alternative, non-adversarial process set out in this Title for resolving disputes and issues that have come into the Tribal Court system. The Traditional Court also voluntarily offers this peacemaking process to community programs, schools and agencies through Memorandums of Agreements requesting mentorship or cultural advisement in disputes and issues or incidents.

§21-1-108 Establishment.

The Spirit Lake Tribe's Wodakota: Traditional Court has been established as part of the Tribal Court system pursuant to the Spirit Lake Wodakota: Traditional Court Title, Title 21, of the Spirit Lake Tribe Law and Order Code and shall function according to the rules, procedures and standards set out in this Title.

§21-1-109 Applicability.

Persons with a dispute who wish to have the dispute resolved through the Wodakota: Traditional Court, the parties to any matter that comes to the Tribal Court, and any juvenile who is the subject of a Juvenile Matter in Tribal Court are eligible to have their case heard and resolved through the Wodakota: Traditional Court. There are four (4) ways in which a matter can be heard before the Wodakota: Traditional Court; they are Informal, Formal, with a Memorandum of Agreement and Voluntarily. The Informal and Formal processes continue to be under the Tribal Court jurisdiction while before the Wodakota: Traditional Court. Before a case can be transferred to the Wodakota: Traditional Court, all persons involved in the dispute or who are parties to the case must consent to participate in the process. Participation in the Wodakota: Traditional Court requires that all persons involved in the dispute or who are parties to the case must consent to participate in the process through a memorandum of agreement. Participation in the Wodakota: Traditional Court is entirely voluntary.

§21-1-110 Peacemakers: Qualifications, Appointment, Authorities.

- (1) Roster. The Tribal Court shall have a roster of at least three (3) Peacemakers at all times, each of whom shall have a signed contract with the Tribe to serve as a Peacemaker when assigned to a specific case by the panel of Peacemakers and Traditional Court Coordinator. Peacemaker will also serve as mentors.
- (2) Selection and Appointment. Peacemakers shall be recommended by the existing panel of Peacemakers and Traditional Court Coordinator and then affirmed by the process adopted by the Tribal Council. The Traditional Court Coordinator and panel of Peacemakers will select Peacemakers with a diversity of backgrounds and experiences so that when appointing a Peacemaker to a particular matter, which Peacemaker is assigned will be decided by the panel of Peacemakers and Traditional Court Coordinator.

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- (3) Background Check. Peacemakers must submit to a fingerprint background check to ensure that there is nothing in their personal history that would indicate that they pose a danger or threat to persons coming before the Wodakota: Traditional Court. Sex offenders are unable to serve as Peacemakers because of the court's involvement with juveniles. Felony offenders may not serve as Peacemakers.
- (4) Qualifications. Peacemakers shall have the following qualifications:
 - (a) A member of a federally recognized Indian tribe who meets the qualifications of "Member" or "Tribal Member" in the definitions section §21-1-107(8) of this Title.
 - (b) Some demonstrable experience or training in mediation or peacemaking.
 - (c) Does not use illegal drugs or abuse alcohol. Peacemakers shall submit to drug testing.
 - (d) Is non-judgmental.
 - (e) Avoids stereotyping.
 - (f) Provides a positive role model to others.
 - (g) In his/her heart is truly willing to help others with dispute resolution.
 - (h) Tribal elders would be preferred. However, this is not a prerequisite.
- (5) Agreement or Oath. Peacemakers selected by the Traditional Court Coordinator and panel of peacemakers must agree in writing or by oath administered by the Tribal Chairman in collaboration with the Tribal Court and the Spirit Lake community, to carry out responsibilities as outlined in §21-1-110(6).
- (6) Responsibilities. Peacemakers shall have the following responsibilities:
 - (a) To execute individual Peacemaking strategies. Each individual participant shall be assigned to a Peacemaker.
 - (b) To serve as the primary liaison between the Peacemaking Circle and the participant.
 - (c) To be responsible for the individual monitoring of the participant to ensure compliance with and completion of the peacemaking compact determined by the Peacemaking Circle pursuant to this Title.
 - (d) To prepare progress reports and make them available to the Traditional Court Coordinator at all meetings with the Peacemaking Circle.
 - (e) To facilitate the completion of ceremonies or feasts in association with the Peacemaking compact.
 - (f) To facilitate Peacemaking circles as assigned.
 - (g) To complete case follow up and proper case management, including confirming participant's attendance and participation in the programs and activities assigned by the Peacemaking Circle.

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- (h) To reach and issue a peacemaking compact, where possible, in matters coming before them for Resolution.
 - (i) To be required to participate in on-going trainings and program orientation.
 - (j) To be recruited and provided training for subsequent work with Wodakota: Traditional Court participants on an individual basis.
 - (k) To meet with individual participants on a regular basis, at least once a week.
 - (l) To be timely for all meetings.
 - (m) To maintain strict confidentiality for all information that he or she learns during the course of carrying out Peacemaker responsibilities.
 - (n) To disqualify themselves with honesty and integrity.
 - (o) To facilitate the Peacemaking Circles.
 - (p) To assist with carrying out the Peacemaking Compacts in reference to Peacemaking Circles.
 - (q) To maintain a valid driver's license.
 - (r) To complete case follow-up.
 - (s) To complete such duties as determined by the Wodakota: Traditional Court panel of Peacemakers and the Traditional Court Coordinator.
- (7) Officers of the Tribal Court. Peacemakers are officers of the Tribal Court when acting as Peacemakers and performing the functions of the Wodakota: Traditional Court, and they shall have the same immunities as Tribal Court judges. As officers of the Tribal Court, Peacemakers are waived from having to obtain a Tribal Business License.
- (8) Consent of Parties Required for Settlement. Peacemakers do not have authority to settle and decide a disputed matter unless all parties to the dispute consent to such authority in writing as a prior condition of participating in the Wodakota: Traditional Court.
- (9) Authority. Peacemakers shall have the following authority:
- (a) To mediate matters among persons involved in the Wodakota: Traditional Court by attempting to get them to agree as to the nature of the problems affecting them and to agree on what should be done to resolve those problems.
 - (b) To oversee cases consistent with applicability authority granted in §21-1-109.
 - (c) To use traditional ways of mediation and community problem solving.
 - (d) To instruct or lecture individuals on the traditional Tribal teachings relevant to their problem or conduct.
 - (e) To encourage persons involved in a matter, affected by it, or in any way connected with it to meet to discuss the problem being worked on and to participate in all necessary peacemaking efforts.
 - (f) Where a juvenile has come before the Wodakota: Traditional Court from a Juvenile matter to establish certain requirements that the juvenile must meet to provide healing, restitution, rehabilitation and/or repentance for the act committed, in a manner that recognizes and is consistent with traditional Tribal teachings.

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- (g) To refer a matter back to the Tribal Court, or, in the case of a juvenile matter referred from another court, to refer the case back to that court if the Peacemaker determines that no satisfactory peacemaking compact can be reached through the Peacemaking process.
 - (h) To assist in developing innovative and alternative methods of resolution, and not to be bound by prior Tribal Court decisions.
 - (i) To use any lawful and reasonable means to obtain the peaceful, cooperative and voluntary peacemaking compact of a dispute subject to peacemaking. No force, violence, or violation of rights secured to individuals by the Indian Civil Rights Act or by Tribal Law or custom will be permitted.
 - (j) To serve as cultural advisors and mentors at community schools, organizations and events as requested.
- (10) Limitations; Peacemakers Not Judges; Agreed Arbitration.
Peacemakers shall only have the authority to use traditional and customary methods to mediate disputes and issues and obtain the resolution of problems through agreement. Peacemakers shall not have the authority to decide a disputed matter unless all parties to the dispute agree to such authority in writing or before the Wodakota: Traditional Court.

§21-1-111 Removal.

A panel of three (3) or more Peacemakers and the Traditional Court Coordinator who shall have authority to remove a Peacemaker from the Tribal Court's roster of Peacemakers at any time for cause. If any person has a complaint against a Peacemaker, the panel of Peacemakers who shall, along with the Traditional Court Coordinator, investigate the matter within a reasonable time period. Grounds for removal include, but are not limited to, the following:

- (1) Breaching the confidentiality requirements of the Wodakota: Traditional Court.
- (2) Engaging in coercion or biased behavior that is unbecoming of and counterproductive to the role of Peacemaker.
- (3) Failing to show up for a scheduled Wodakota: Traditional Court session.
- (4) Failing to conduct Wodakota: Traditional Court sessions in a timely fashion.
- (5) Should a Peacemaker, while serving in this role, be charged with a felony, this section will comply with the procedures outlined in Chapter 21-1-110(3).

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- (6) Failing to recuse him or herself from a matter in which he or she has a conflict of interest.

§21-1-112 Confidentiality.

All information, documents, items and all discussions brought before the Wodakota: Traditional Court shall be kept in strict confidentiality.

- (1) Non-Disclosure Agreement Required. Prior to the beginning of any Wodakota: Traditional Court proceeding, all the parties and all participants in such proceeding, including the Peacemaker and all Tribal employees assisting the Wodakota: Traditional Court, shall sign a non-disclosure agreement reflecting their understanding of and commitment to the confidentiality of all proceedings before the Wodakota: Traditional Court.
- (2) Proceedings Private and Confidential. All proceedings of the Wodakota: Traditional Court shall be private and confidential. The parties to any proceeding may, however, mutually agree that named individuals may attend specific proceedings.
- (3) No Documents to be Released without Consent. No documents shall be released by any employee or member of the Tribal Court to any person or governmental agency unless mutually agreed to in writing by the parties.
- (4) Cannot be Used as Evidence. No statement, other evidence, or other information given during the Peacemaking process may be entered in evidence or otherwise considered in any subsequent judicial proceeding in any court. No Peacemaker, nor the Traditional Court Coordinator, may be called to give evidence in any judicial proceeding in any court that involves any dispute to which he or she had been assigned. No record of the discussions or the substance of any discussions themselves may be introduced in any court as evidence or for any other purpose.

§21-1-113 Procedure for Requesting Matter to Be Heard by Wodakota: Traditional Court.

- (1) Request. Any Tribal member who requires assistance to resolve a dispute with another Tribal member may file a request to have the matter heard by the Wodakota: Traditional Court ("Peacemaker Request"), whether or not a case has already been filed in the Tribal Court.
- (2) Voluntary Assistance. Any Tribal member who request voluntary assistance from the Wodakota: Traditional Court such as, but not limited to, a family dispute whether it is between adults and/or juveniles is required to consent to the process.

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- (3) Statute of Limitations Tolloed. If no case has been filed, the filing of a Peacemaker request to resolve a matter will comply with the existing civil and criminal statute of limitations outlined in the Spirit Lake Tribe Law and Order Code.
- (4) Non-Tribal Members. The Wodakota: Traditional Court may, in its unrestricted discretion and upon submission of a Peacemaker Request or memorandum of agreement by a party, exercise jurisdiction over matters involving non-tribal members (including those involving non-Indians).
- (5) Filing of Request. Peacemaker Requests shall be filed with the Traditional Court Coordinator of the Tribal Court on a form developed and provided by the Court. Peacemaker Requests must be filed within six months of the date of the incident which gave rise to the dispute.
- (6) Copies Provided to Parties. The Traditional Court Coordinator, will review the request and forward to the Wodakota: Traditional Court panel of Peacemakers.
- (7) Consent in Writing Required from All Parties. All parties to the dispute must consent in writing to having the matter heard by the Wodakota: Traditional Court. If there is not consent by all the parties, the Wodakota: Traditional Court will not proceed any further.
- (8) Memorandum of Agreements (MOA's) to be formed between the Traditional Court and the individual schools, programs, businesses and organizations that agree to participate in the Wodakota: Traditional Court process as per their established role as outlined in the M OA.
- (9) Persons Who are Not Parties. Persons who are not parties to the dispute can neither request nor object to the hearing of a matter by the Wodakota: Traditional Court.

§21-1-114 Review Process.

- (1) Presentation of Request to Judge. Upon filing of a Peacemaker Request, the Traditional Court Coordinator will present the request to the panel of Peacemakers. The Juvenile Intake Officer is also allowed to make case referrals to the Wodakota: Traditional Court and upon obtaining the Judge's signature, the matter will be reviewed by the Peacemaking Process.
- (2) Timing of Decision on Request. The panel of Peacemakers shall make a decision on the Request within fourteen (14) business days of receiving the Request. If the panel of Peacemakers makes no decision within that period of time, the Request will be deemed denied, except that the Traditional Court Coordinator upon written notice to the parties, may extend the time for making a decision on the Request by a period of up to thirty (30) business days.

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- (3) Procedure for Denying Request. If the Request is denied, the panel of Peacemakers shall give the reasons for the denial in a brief writing and send a copy to the parties who submitted the Request. Some common reasons for denying a request include, but are not limited to, the following:
 - (a) Lack of authority over the issue when pursuant to federal statutes and/or tribal law and order.
 - (b) Parties unwilling to cooperate in the Peacemaking Process.
 - (c) Any other basis for denial as deemed necessary and appropriate by the panel of Peacemakers.
- (4) Procedure for Granting Request. The Traditional Court Coordinator and the panel of Peacemakers may grant the Request on the basis of the information provided in the Request, or order an informal conference among the parties prior to making a decision on the request.
- (5) Order Granting Request. The order will be made by the Peacemakers where they will conclude if they will agree to hear the matter at hand through MOA, Informal or Voluntary. If the Request is granted, the Traditional Court Coordinator will so indicate in writing and the Peacemaker Panel and Traditional Court Coordinator will appoint one of the Peacemakers to hear the matter. A copy of the order will be sent to all the parties and to the appointed Peacemaker.
- (6) Stay of Litigation. If the matter under dispute is already the subject of a Tribal Court civil proceeding, the order shall include a stay of such litigation until the matter is resolved by the Wodakota: Traditional Court or is referred back without a peacemaking compact. Any applicable statute of limitations shall commence running upon a determination that further Peacemaking attempts are futile or by a refusal of any party to participate in the Peacemaking process.
- (7) Conditions on Referral. A case may be transferred to the Wodakota: Traditional Court upon any reasonable condition and the Wodakota: Traditional Court proceedings may be terminated and the case transferred back upon breach of or failure to satisfy any condition imposed.

§21-1-115 Peacemaking Process.

- (1) Peacemaker to Contact Parties. The appointed Peacemaker shall contact each party to the matter within forty-five (45) days. The Peacemaker may contact witnesses and may interview such people as necessary, in the view of the Peacemaker, to develop an understanding of the dispute.

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- (2) **Peacemaker to Work with Parties.** The Peacemaker shall work with the parties to arrive at a collaborative and mutually acceptable Peacemaking compact of the dispute, and shall schedule as many meetings between the parties as the Peacemaker feels would be necessary and useful for resolving the dispute. There shall be no strict requirements on how the process works. Instead, the Peacemaker shall develop an approach that best suits the parties and the circumstances, which may involve separate meetings with each of the parties in addition to bringing all the parties together.
- (3) **Determination that Peacemaking compact cannot be Reached.** If at any time during the course of the Peacemaking process, the Peacemaker, or any of the parties to the Peacemaking process, determines that a satisfactory Peacemaking compact cannot be reached through the Peacemaking process and that it is futile to continue, the Peacemaker shall refer the matter back to the panel of Peacemakers. The Panel and Traditional Court Coordinator will then determine if a Peacemaking Circle should be assigned to the matter. The Traditional Court Coordinator and/or panel of three (3) Peacemakers may assign another Peacemaker to attempt to continue the Peacemaking process, if it is determined that the appointment of a different Peacemaker might result in development of a Peacemaking compact. If not, the Peacemaking Panel determines if the case should get transferred back to Tribal Court.
- (4) **No Decision as to Fault or Liability for Damages.** Peacemakers shall not decide fault or liability for damages, although the parties may agree that one should make payment to the other as part of a Peacemaking compact.
- (5) **Peacemaking Circles.** The Peacemaker will create a respectful space for everyone to be heard and help the "Peacemaking Circle" come to an agreement on the issue at hand. This process will be used as an alternative to the current court procedures. We will use wisdom from our elders, spiritual leaders and community members in the "Peacemaking Circles" process to help resolve conflicts through mediation and serve as an alternative sentencing route for offenders.
- (6) **No Coercion Permitted.** Peacemakers have no authority to force or otherwise coerce the parties into a peacemaking compact of the request.
- (7) **Peacemaking Compact must be put in Writing.** When and if a peacemaking compact is reached, the parties shall, working with the Peacemaker and Traditional Court Coordinator, put the peacemaking compact in writing. The peacemaking compact shall describe the terms and conditions of the agreement reached between the parties. Each party to the peacemaking compact shall agree that they will abide by all terms and conditions of the peacemaking compact.
- (8) **Review of Success of Peacemaking Compact.** The Peacemaker assigned to the matter shall, within thirty (30) days of the signing of the peacemaking compact, review the

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success of the peacemaking compact with the parties. At this meeting, the parties may affirm the peacemaking compact, modify the peacemaking compact, or reject the peacemaking compact as unsuccessful. To affirm or modify the peacemaking compact, all parties must agree and sign off. A peacemaking compact will be deemed unsuccessful if any party rejects it.

- (9) **Successful or Modified Peacemaking Compact.** If a peacemaking compact is deemed successful or a modified peacemaking compact is agreed upon, it will be signed by all the parties and by the Peacemaker and the Peacemaker shall submit the peacemaking compact to the Judge and Traditional Court Coordinator.
- (10) **Peacemaking Compact May Be Adopted as Order and Judgment; Conditions.** If the parties wish to have the peacemaking compact adopted as an order and judgment of the Tribal Court, the Traditional Court Coordinator and the Peacemaker shall review the peacemaking compact and shall sign it, provided that the peacemaking compact meets the following criteria:
 - (a) The Tribal Court has jurisdiction over the parties involved.
 - (b) All necessary parties for implementing the peacemaking compact have actual knowledge of the peacemaking compact and have agreed to it.
 - (c) The peacemaking compact contains the complete agreement of the parties and contains sufficient information regarding that full agreement so that a matter as to the provisions of the peacemaking compact is not likely to arise in the future.
 - (d) The peacemaking compact is otherwise proper and enforceable by the Tribal Court.
 - (e) The peacemaking compact contains the following information:
 - i. Names and jurisdictional information with regard to each party, and the name of the Peacemaker.
 - ii. A statement that all necessary parties have actual knowledge of the peacemaking compact and have agreed to it becoming an order and judgment of the Tribal Court.
 - iii. A statement that the peacemaking compact is based upon the Spirit Lake Tribes' Wodakota: Traditional Court proceedings.
 - iv. A general, brief description of the dispute.
 - v. A satisfactory description of the terms and conditions for each party to the peacemaking compact.

The Traditional Court Coordinator, with the consent of the parties and the Peacemaker, may make such modifications to the Peacemaking compact so that it complies with the requirements of this Section for the purposes of making it an enforceable order and judgment.

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- (11) Legal Force of Peacemaking compact. The Peacemaking compact, once signed by all the parties, the Peacemaker, and the Traditional Court Coordinator, shall have the force of an order and judgment of the Tribal Court.
- (12) Copies of Peacemaking compact to be preserved. Each party to the Peacemaking compact and the Peacemaker assigned to the Peacemaker Process shall preserve a copy of the Peacemaking compact. All signed statements containing a Peacemaking compact shall be forwarded to the Clerk of Court as well.

§21-1-116 Additional Procedures for Juvenile Matters for Wodakota: Traditional Court.

Because of the unique and special nature of Juvenile Matters, the transfer of such matters to the Wodakota: Traditional Court shall be governed by the following additional procedures. Provided, however, that all other provisions of this Title will apply to Juvenile Matters transferred to the Wodakota: Traditional Court to the extent that they are consistent with the provisions of this section.

- (1) Eligibility of Juveniles for Peacemaker Process. Those Spirit Lake Tribal members who are below the age of eighteen (18) and who are the subject of a pending Juvenile Matter in Tribal Court may have their matter heard through the Wodakota: Traditional Court.
- (2) Request for Peacemaker. A juvenile who wishes to submit his or her Juvenile Matter to the Wodakota: Traditional Court shall submit a written request to the Tribal Court on an application form developed by the Tribal Court for that purpose. On that form, the juvenile shall indicate his or her consent to submit to the authority of the Wodakota: Traditional Court and to abide by the decision and peacemaking compact reached by through the Peacemaking process. If the court with jurisdiction over the Juvenile Matter consents to having the matter heard through the Wodakota: Traditional Court, the Traditional Court Coordinator and panel of Peacemakers shall appoint a Peacemaker and assign the matter to him or her through consensus.
- (3) Participation of Parents, Families, and Victims. The Peacemaker shall provide for active participation from parents and families whose children are involved in a case, as well as for the victim(s) of the juvenile's behavior.
- (4) Responsibility for Wrongful Behavior. The Peacemaker shall provide an environment for the wrong-doer to take responsibility for his/her wrongful behavior, and shall provide an environment that is safe for victims and wrong-doers to work out problems and begin the healing process.
- (5) Traditional Practices and Teachings. The Peacemaker shall assist in locating traditional practices and teachings and community based services to children, youth, family members and others.

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- (6) Cooperative and Collaborative Process. The Peacemaker shall, through a cooperative and collaborative process, develop a peacemaking compact for the matter that is acceptable to all the parties involved.
- (7) Compliance with Peacemaking Compact; Consequences for Failure to Do So. The juvenile shall comply with all the terms and conditions of the peacemaking compact. If he or she fails to do so, the case may be transferred back to the court.
- (8) Referral of Matter Back to Court. The Peacemaker has the authority to refer a Juvenile Matter back to the court.

§21-1-117 Principles of Construction.

The following principles of construction apply to this Title unless a different construction is obviously intended to obtain a reasonable result:

- (1) Masculine words shall include the feminine and singular words shall include the plural, and vice versa.
- (2) Words shall be given their plain meaning and technical words shall be given their usually understood meaning where no other meaning is specified.
- (3) This Title shall be construed as a whole to give effect to all its parts in a logical consistent manner.
- (4) All other issues of construction shall be decided using a generally accepted principle of construction that will affect the underlying principles and purposes of this Title.
- (5) The provisions of this Title shall supersede any inconsistent provisions in the Spirit Lake Tribe Law and Order Code or Rules of Court for the Spirit Lake Tribal Court.

§21-1-118 Severability.

If any provisions of this Title or the application of any provision to any person or circumstance is held invalid or unenforceable by a court of competent jurisdiction, such holding shall not invalidate or render unenforceable the remainder of this Title and its application to any other person or circumstances and, to this end, the provisions of this Title are severable.

§21-1-119 Sovereign Immunity.

Except as expressly and specifically waived by a resolution of the Spirit Lake Tribal Council or by the Spirit Lake Tribe Law and Order Code, the Spirit Lake Tribe shall be immune from suit, and their officers and employees also shall be immune from suit for liability arising from the performance of their official duties.