

SISSETON-WAHPETON OYATE

CODES OF LAW

CHAPTER 20-Jurisdiction - Civil and Criminal

20-01-01 CIVIL JURISDICTION

20-01-02 The Tribe shall exercise civil jurisdiction over all civil matters involving the Tribe or any member of the Tribe and any other person or entity and that involves the transaction of any business or the commission of a tortious act on or within the Indian country within the exterior boundaries of the Lake Traverse Indian Reservation or on or within any other property related to or that involve a contract, wherever entered into, to supply goods or services on or within such Indian country. The Tribe shall also exercise civil jurisdiction over any person who commits a tortious act outside of such Indian country causing injury to the Tribe or any member of the Tribe on or within such Indian country, provided that such person regularly does or solicits business, or engages in any other persistent course of conduct, or derives substantial revenue from goods used or consumed or services rendered on or within such Indian country, or expects or should reasonably expect the act to have consequences on or within such Indian country and derives substantial revenue from interstate or international commerce or from commerce with the Tribe.

20-01-03 Any person or entity employed by, doing business or engaging in commerce with the Tribe or any, political subdivision, agency or entity of the Tribe, including, but not limited to, the Tribal Council, any district, any department, board, commission, committee, the Tiospa Zina Tribal School, the Sisseton-Wahpeton Community College, the Dakota Western Corporation, and any gaming enterprise of the Tribe as an employee, agent, contractor, licensee, permittee, lessee, or otherwise shall, as a condition of such employment or agency, contract, license, permit, lease or other business or commerce, does by such act(s), formally consent to the civil regulatory jurisdiction of the Tribe, to the exclusive jurisdiction of the Tribe over any civil matter within the civil jurisdiction conferred by Section 20-01-02 and to comply with the laws of the Tribe while such person or entity is within the Indian country within the exterior boundaries of the Lake Traverse Indian Reservation. This includes being subjected to the Traffic Codes of the Sisseton Wahpeton Oyate, the civil and criminal jury requirements, as well as any criminal ordinance which provides for the civil regulatory jurisdiction.

20-01-04 Whenever the Tribe or any political subdivision, agency or entity of the Tribe has

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Motion No. 81
Resolution No. SWO-14-079*

**Sisseton-Wahpeton Oyate
Judicial Committee**

New Code Amended Code Repealed Code
Tribal Council Resolution No. 14-079
Judicial Committee Adoption Date 08-28-14
Tribal Council Approval Date 08-28-14

the authority to approve a license, permit, lease or agreement, each application for such license, permit, lease or agreement, shall require the applicant to execute an acknowledgement that acceptance of such license, permit, lease or agreement by the applicant constitutes the applicant's formal acquiescence to the civil jurisdiction of the Tribe. The acknowledgement shall be stated in bold face and with each letter of each word capitalized.

20-01-05 Each license, permit, lease or agreement issued by the Tribe or any political subdivision, agency or entity of the Tribe shall also contain a statement that in accordance with the licensee's, permittee's, lessee's or contractor's application, the licensee, permittee, lessee or contractor has formally acquiesced to the exclusive civil jurisdiction of the Tribe as a condition for such license, permit, lease or agreement.

20-01-06 A violation of the conditions of any license, permit, lease or agreement or of any law of the Tribe by any licensee, permittee, lessee or contractor while such person or entity, within the Indian country within the exterior boundaries of the Lake Traverse Indian Reservation, is engaged in any business or activity pursuant to such license, permit, lease or agreement or otherwise, shall subject the violator to civil fines and to forfeiture of any property used in the commission of such violation. The Tribal Council, any district, any department, board, or commission of the Tribe is authorized to adopt rules and regulations establishing a schedule of civil fines for violations of the laws or the licenses, permits, leases or agreements administered by such agency of the Tribe, and procedures governing the forfeiture of property used in the commission of such violations.

20-01-07 The Sisseton-Wahpeton Oyate Tribal Court, pursuant to its inherent sovereign authority, 18 U.S.C. 2265 (Full Faith and Credit Act), and the Violence Against Women Reauthorization Act of 2013, has full civil regulatory and adjudicatory jurisdiction to issue and enforce civil protection orders involving any person, including the authority to enforce any orders through civil contempt proceedings, to exclude violators from Indian land, and to use other appropriate mechanisms in matters arising anywhere in the jurisdiction of the Sisseton-Wahpeton Oyate. Jurisdiction shall extend to lands lying in the territory within the original confines of the Lake Traverse Reservation as described in Article III of the Treaty of February 19, 1867 15 Stat. 505, and those lands subsequently acquired by the Sisseton-Wahpeton Oyate, regardless of whether such after-acquired lands are in fee status or trust status. The Sisseton-Wahpeton Oyate reserves the right to exceed requirements set in certain federal laws for the greatest protection of tribal members and all those who live, work, visit, or attend school within the jurisdiction of the Sisseton-Wahpeton Oyate or any land owned or operated by the Sisseton-Wahpeton Oyate, wherever located or otherwise within the authority of the Sisseton-Wahpeton Oyate.

20-02-01 CRIMINAL JURISDICTION

20-02-02 The Tribe shall exercise criminal jurisdiction over all members of the Tribe, any other Indian person as defined by federal law who commit an offense defined in this Code and non-Indians who submit to the jurisdiction of the SWO or who commit an offense defined in Chapter 52-01-03(4) and Chapter 20-03-02, anywhere within the jurisdiction of the Sisseton-Wahpeton Oyate. Jurisdiction shall extend to lands lying in the territory within the original confines of the Lake Traverse Reservation as described in Article III of the Treaty of February 19, 1867 15 Stat. 505, and those lands subsequently acquired by the Sisseton-Wahpeton Oyate. The Sisseton-Wahpeton Oyate reserves the right to exceed requirements set in certain federal laws for the greatest protection of tribal members and all those who live, work, visit, or attend school within the jurisdiction of the Sisseton-Wahpeton Oyate or any land owned or operated by the Sisseton-Wahpeton Oyate, wherever located.

20-02-03 The Tribe shall exercise criminal jurisdiction over all non-Indians who commit an offense as defined under the Sisseton-Wahpeton Oyate Codes of Law anywhere within the jurisdiction of the Sisseton-Wahpeton Oyate, whenever such non-Indian formally acquiesces to such jurisdiction in return for the Tribe's agreement not to exercise its power to exclude the offender from such Indian country or pursuant to 20-03-01 through 20-03-03 of this Chapter. In addition, such criminal jurisdiction over all non-Indians shall apply as authorized as provided by the SWO Codes of Law, Chapter 52-01-03(4) and the special domestic violence criminal jurisdiction provided the Violence Against Women Act. Jurisdiction shall extend to lands lying in the territory within the original confines of the Lake Traverse Reservation as described in Article III of the Treaty of February 19, 1867 15 Stat. 505, and those lands subsequently acquired by the Sisseton-Wahpeton Oyate. The Sisseton-Wahpeton Oyate reserves the right to exceed requirements set in certain federal laws for the greatest protection of tribal members and all those who live, work, visit, or attend school within the jurisdiction of the Sisseton-Wahpeton Oyate or any land owned or operated by the Sisseton-Wahpeton Oyate, wherever located.

20-02-04 Whenever the Tribe or any political subdivision, agency or entity of the Tribe has the authority to approve a license, permit, lease or agreement, each application for such license, permit, lease or agreement shall require the applicant to execute an acknowledgement that acceptance of such license, permit, lease or agreement by the applicant constitutes the applicant's formal acquiescence to the criminal jurisdiction of the Tribe in return for the Tribe's agreement that whenever such

criminal jurisdiction is to be exercised, the Tribe will not exercise its power to exclude the offender from the Indian country subject to the Tribe's jurisdiction. The acknowledgment shall be stated in bold face and with each letter of each word capitalized.

20-02-05 Each license, permit, lease or agreement issued by the Tribe or any political subdivision, agency or entity of the Tribe shall also contain a statement that in accordance with the licensee's, permittee's, lessee's or contractor's application, the licensee, permittee, lessee or contractor has formally acquiesced to the criminal jurisdiction of the Tribe.

20-02-06 In the exercise of criminal jurisdiction over a non-Indian offender, such offender shall be afforded the protections as defined in Chapter 23 of the Sisseton-Wahpeton Oyate Codes of Law.

20-02-07 In addition to the criminal jurisdiction over non-Indians outlined in this Code, law enforcement officers of the Tribe shall have the authority to arrest a non-Indian who commits any offense defined in the SWO Codes of Law or in the laws of the United States or the State of South Dakota or the State of North Dakota and detain such non-Indian pending the transfer of such non-Indian to the custody of a law enforcement officer of a jurisdiction having authority to prosecute such non-Indian for the commission of the offense.

20-02-08 The term "**non-Indian**" as used in this section includes any corporation, partnership, trust or other entity owned or controlled by non-Indians. The term "**agreement**" as used in this section includes any contract, whether oral or written.

20-02-09 Any contraband or other property used in the commission of an offense shall be forfeited to the Tribe.

20-03-01 **SPECIAL DOMESTIC VIOLENCE CRIMINAL JURISDICTION**

20-03-02 **CRIMINAL CONDUCT COVERED**

The Sisseton-Wahpeton Oyate hereby exercises its inherent power, which is recognized and affirmed by the Violence Against Women Reauthorization Act of 2013, to exercise special domestic violence criminal jurisdiction (SDVCJ) over non-Indians. The Sisseton-Wahpeton Oyate may exercise special domestic violence criminal jurisdiction for criminal conduct that falls into one or more of the following categories:

1. Domestic Violence and/or Dating Violence - an act of domestic violence and/or dating violence, pursuant to Chapter 52, that occurs in the jurisdiction

of the Sisseton-Wahpeton Oyate.

2. Violations of Protection Orders - an act that:
 - a. Occurs in the jurisdiction of the Sisseton-Wahpeton Oyate; and
 - b. Violates the portion of protection order that:
 - i. Prohibits or provides protection against violence or threatening acts or harassment against, sexual violence against, contact or communication with, or physical proximity to, another person;
 - ii. was issued against the defendant;
 - iii. is enforceable by the Sisseton-Wahpeton Oyate:
 1. was issued by a court with jurisdiction over the parties and matter; and
 2. gave reasonable notice and opportunity to be heard, sufficient to protect the defendant's right to due process.

20-03-03 DEFENDANTS

The Sisseton-Wahpeton Oyate may exercise special domestic violence criminal jurisdiction over a non-Indian defendant that meets any of the below criteria:

1. Resides within the jurisdiction of the Sisseton-Wahpeton Oyate; and/or
2. Is employed within the jurisdiction of the Sisseton-Wahpeton Oyate; and/or
3. Is a spouse, intimate partner, or dating partner of:
 - a. a member of the Sisseton-Wahpeton Oyate, or
 - b. any Indian person of another tribe who resides in the jurisdiction of the Sisseton-Wahpeton Oyate; and
4. Any person who violates a domestic violence protection order as defined under Chapter 20-03-02 within the jurisdiction of the Tribe.

20-04-01 SEVERABILITY

If any clause, sentence, paragraph, section, or part of this Code shall, for any reason be adjudicated by the Tribal or Appellate Court to be invalid or unconstitutional, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section, or part thereof, directly involved in the controversy in which the judgment shall have been rendered.

20-05-01 CONSTRUCTION

This Code shall be interpreted and applied in a manner consistent with all other Codes, Laws, Resolutions, and Regulations of the Sisseton-Wahpeton Oyate.

20-06-01 AMENDMENT

This Code may be amended only upon an affirmative vote of a majority of the Council of the Sisseton-Wahpeton Oyate.

20-07-01 EFFECT OF HEADINGS

Headings shall not be deemed to govern, limit, modify, or in any manner affect the scope, meaning, or intent of the provisions of any portion of this Code.

20-08-01 INTERPRETING DEFINITIONS

Words or phrases used in this Code shall be interpreted so as to give them the meaning they have in common usage for the Sisseton-Wahpeton Oyate and to give this Code it's most reasonable application. The words and phrases in this Part are specifically defined and shall control and prevail over any other definition.

(This Chapter 20 of the Tribal Codes of Laws to replace and supersede all prior Ordinances and Resolutions.)

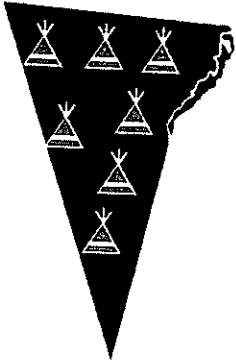
I, _____, hereby consent to the civil and criminal jurisdiction of the Sisseton-Wahpeton Oyate in accordance with CHAPTER 20 of the Tribe's Codes of Laws.

(DATE) (SIGNATURE)

I, _____, hereby acknowledge receipt of a copy of CHAPTER 20 of said Codes of Laws.

(DATE) (SIGNATURE)

(This Chapter 20 of the Tribal Codes of Laws to replace and supersede all prior Ordinances and Resolutions.)



Sisseton Wahpeton Oyate

LAKE TRAVERSE RESERVATION

P.O. Box 509

100 Veterans Memorial Drive

Agency Village, South Dakota 57262-0509

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TRIBAL COUNCIL RESOLUTION NO. SWO-14-079

SISSETON-WAHPETON OYATE CODES OF LAW CHAPTER 20 – JURISDICTION: CIVIL AND CRIMINAL

WHEREAS, The Sisseton-Wahpeton Oyate is organized under a Constitution and By-laws adopted by the members of the Tribe on August 1-2, 1966, and approved by the Commissioner of Indian Affairs on August 25, 1966, and last amended effective November 15, 2006; and

WHEREAS, The Constitution ARTICLE III, Section 1, states that, the Sisseton-Wahpeton Oyate shall be governed by a Council, and ARTICLE VII, Section 1, states that, the Council shall have the following powers: (a) to represent the Tribe in all negotiations with Federal, State and local governments; (b) to acquire, own, use, manage, lease and otherwise encumber and to dispose of Tribal property, both real and personal, wherever situated; (c) to engage in any business that will further the economic development of the Tribe and its Members, and to use Tribal funds or other resources for such purposes; (d) to make rules governing the relationship of the members of the Tribe, to Tribal property, and to one another as members of the Tribe; (e) to hire employees and agents, including legal counsel, directly or as independent contractors, and to compensate them for their services; (f) to deposit Tribal funds to the credit of the Tribe, without limitations of the amount in any account; (g) to take any action by ordinance, resolution, or otherwise which are reasonably necessary through committees, boards, agents or otherwise, to carry into effect the for-going purposes; (h) to promote public health, education, charity, and such other services as may contribute to the social advancement of the members of the Sisseton-Wahpeton Oyate; (i) adopt resolutions regulating the procedures of the Tribal Council, its officials and committees in the conduct of Tribal Affairs; and

WHEREAS, On July 29, 2010, the federal government enacted the Tribal Law and Order Act of 2010 (TLOA), to allow, in part, Tribal Courts to increase jail sentences imposed by Tribal Courts; and

WHEREAS, On March 7, 2013, the federal government enacted the Violence Against Women Reauthorization Act of 2013 (VAWA), which recognized the Tribes' inherent right to exercise, "special domestic violence criminal jurisdiction" (SDVCJ) over certain defendants, regardless of their Indian or non-Indian status, who commit act of domestic violence or dating violence or violate certain protection orders in Indian Country; and

WHEREAS, The Tribal Council responded to each of these Federal Laws by directing the SWO Legal Department and entities of the Sisseton-Wahpeton Oyate to work together in implementing each of these laws (SWO-10-112, SWO-14-039); and

WHEREAS, Pursuant to the above TLOA and VAWA provisions, the Sisseton-Wahpeton Oyate (SWO) applied for and received a grant from the National Congress of American Indians (NCAI) to implement the provisions of VAWA and TLOA; and

WHEREAS, In addition, the SWO has been designated by the federal government as a voluntary "Pilot Project", in order to allow the SWO to begin the process of implementing the provisions of VAWA on an accelerated basis and in conjunction, the provisions of TLOA; and

WHEREAS, In order to implement the provisions of federal law, the SWO Judicial Committee has recommended the amendment of Chapter 20 – Civil and Criminal Jurisdiction to incorporate certain provisions of the federal laws and allow the SWO to exercise jurisdiction to the fullest extent possible; and

WHEREAS, The SWO Judicial Committee presented the proposed amendments to the seven (7) districts in order to solicit comments and recommendations of Chapter 20, Jurisdiction – Civil and Criminal and now recommends passage of the amendments.

NOW THEREFORE, BE IT RESOLVED that the Tribal Council of the Sisseton-Wahpeton Oyate of the Lake Traverse Reservation, hereby approves of the revised and amended Chapter 20, Jurisdiction – Civil and Criminal and all previous versions of Chapter 20, Jurisdiction – Civil and Criminal are hereby repealed and superseded by passage of the amended Chapter 20, Jurisdiction – Civil and Criminal; and

BE IT FURTHER RESOLVED that the SWO Legal Department is hereby authorized to post Chapter 20, Jurisdiction – Civil and Criminal on the Tribe's website for public information purposes; and


BE IT FINALLY RESOLVED that the Chairman and Secretary of the Sisseton-Wahpeton Tribal Council are hereby authorized and instructed to sign this Resolution for and on behalf of the Tribal Council.


CERTIFICATION

We, the Undersigned duly elected Tribal Chairman and Tribal Secretary of the Sisseton-Wahpeton Oyate Tribal Council, do hereby certify that the above resolution was duly adopted by the Sisseton-Wahpeton Oyate Tribal Council, which is composed of 10 members (representing a total of 15 Tribal Council weighted votes and two Executive Committee votes for a total of 17 votes) of whom 10 constituting a quorum, were present at a Tribal Council meeting, duly noticed, called, convened and held at the TiWakan Tio Tipi, Agency Village, South Dakota, August 28, 2014, by a vote of 17 for, 0 opposed, 0 abstained, 0 absent from vote, 1 not voting, and that said Resolution has not been rescinded or amended in any way.

Dated this 28th day of August 2014.

ATTEST:


Robin Quinn, Tribal Secretary
Sisseton-Wahpeton Oyate


Robert Shepherd, Tribal Chairman
Sisseton-Wahpeton Oyate

