

FLANDREAU SANTEE SIOUX TRIBE LAW AND ORDER CODE

**TITLE 1
GENERAL PROVISIONS**

TABLE OF CONTENTS

CHAPTER 1 – PRELIMINARY PROVISIONS 3

 Section 1-1-1. Constitutional Authority..... 3

 Section 1-1-2. Name of Code..... 3

 Section 1-1-3. Prior Inconsistent Ordinances Repealed. 3

 Section 1-1-4. Amendment of Law and Order Code. 3

 Section 1-1-5. Effective Date..... 3

CHAPTER 2 – ESTABLISHMENT OF COURTS; JUDGES AND OTHER COURT
PERSONNEL 3

 Section 1-2-1. Courts Established..... 3

 Section 1-2-2. Judges. 4

 Section 1-2-3. Removal of Judges. 4

 Section 1-2-4. Powers and Duties of Judges..... 4

 Section 1-2-5. Disqualification of Judges..... 5

 Section 1-2-6. Oath of Office of Judge..... 5

 Section 1-2-7. Clerks of Courts. 5

 Section 1-2-8. Duties of the Clerks..... 6

 Section 1-2-9. Probation and Parole Officers. 6

CHAPTER 3 – CONTEMPTS..... 6

 Section 1-3-1. Acts or Failure to Act Which Constitute Contempt of Court..... 6

 Section 1-3-2. Civil Contempt. 7

 Section 1-3-3. Criminal Contempt..... 7

 Section 1-3-4. Contempt Procedure..... 7

CHAPTER 4 – JURISDICTION 8

 Section 1-4-1. Territorial Jurisdiction. 8

 Section 1-4-2. Personal Jurisdiction..... 8

 Section 1-4-3. Jurisdiction Over Property. 9

 Section 1-4-4. General Subject Matter Jurisdiction. 9

Section 1-4-5. Concurrent Jurisdiction.....	9
Section 1-4-6. Exclusive Original Jurisdiction.	9
CHAPTER 5 – COUNSELORS AND PROFESSIONAL ATTORNEYS	9
Section 1-5-1. Lay Counsel.....	9
Section 1-5-2. Right to be Represented by an Attorney.	10
Section 1-5-3. Eligibility for Admission.....	10
Section 1-5-4. Procedure for Admission.....	10
Section 1-5-5. Disbarment and Discipline.	11
Section 1-5-6. Oath of Attorneys and Counselors.	11
Section 1-5-7. [no text]	12
Section 1-5-8. Non-Resident Attorneys.....	12
CHAPTER 6 – JURORS	12
Section 1-6-1. Qualifications of Jurors.....	12
Section 1-6-2. Jury List.....	12
Section 1-6-3. Jury Trials.....	12
Section 1-6-4. Power to Excuse Jurors.	13
Section 1-6-5. Compensation of Jurors.....	13
CHAPTER 7 – SUBPOENAS AND SERVICES OF OTHER PAPERS	13
Section 1-7-1. Issuance of Subpoenas.	13
Section 1-7-2. Services of Subpoenas; Return of Service.	13
CHAPTER 8 – GENERAL PROVISIONS	13
Section 1-8-1. Adoption by Reference Not a Waiver of Sovereign Power of the Flandreau Santee Sioux Tribe.....	13
Section 1-8-2. Publishing.....	13
Section 1-8-3. Reserved.....	14
Section 1-8-4. Sovereign Immunity.....	14
Section 1-8-5. Actions By or Against Tribe or Its Officers or Employees.....	14
Section 1-8-6. Limitations in Civil Actions.....	14
Section 1-8-7. Principles of Construction.....	15
Section 1-8-8. Definitions.....	15
LEGISLATIVE HISTORY	16

CHAPTER 1 – PRELIMINARY PROVISIONS

Section 1-1-1. Constitutional Authority.

This Law and Order Code is adopted pursuant to the authority vested in the Flandreau Santee Sioux Executive Committee under the Constitution of the Flandreau Santee Sioux Tribe.

Section 1-1-2. Name of Code.

This Law and Order Code shall be known as the Law and Order Code of the Flandreau Santee Sioux Tribe and may be referred to as the Code, and may be abbreviated as FSST T.L.O.C.

Section 1-1-3. Prior Inconsistent Ordinances Repealed.

Any and all ordinances of the Flandreau Santee Sioux Tribal Council which conflict in any way with the provisions of this Law and Order Code are hereby repealed to the extent that they are inconsistent with or conflict with, or are contrary to the spirit and/or purpose of this Law and Order Code. All prior ordinances and resolutions of the Executive Committee dealing with the same subject matter as the titles of this Code are repealed as of the effective date of this Code.

Section 1-1-4. Amendment of Law and Order Code.

This Law and Order Code may be amended, additions made hereto, or deletions made there from in the manner provided for the adoption of Executive Committee ordinances. Amendments and additions to this Law and Order Code shall become a part thereof for all purposes and shall be codified and incorporated herein in a manner consistent with the numbering and/or annexation hereof, provided however that said amendments or additions shall have no retroactive effect nor shall it be applied ex post facto to any case or controversy pending in the tribal court.

Section 1-1-5. Effective Date.

This code shall become effective upon approval of the Flandreau Santee Sioux Tribe Executive Committee.

CHAPTER 2 – ESTABLISHMENT OF COURTS; JUDGES AND OTHER COURT PERSONNEL

Section 1-2-1. Courts Established.

There is hereby established a court of general jurisdiction known as The Tribal Court of the Flandreau Santee Sioux Tribe, which shall include divisions known as the juvenile court, the administrative court, criminal court, civil court, and the Court of Appeals.

Section 1-2-2. Judges.

There shall be appointed by the Executive Committee one Chief Judge and at least one Associate Judge who shall be called into service as the occasion arises. There shall also be appointed three appellate judges to serve on the tribal appellate court.

The appointment, qualification, and compensation to be received by such judges shall be determined by the Executive Committee, provided, however, that a judge once appointed shall not have his compensation decreased during his term of office, and provided further that no judge shall be suspended or removed from office prior to the expiration of his term, except as provided hereinafter.

Any judge presiding over criminal proceeding where an offense is subject to imprisonment of greater than one year or fine of greater than \$5000, shall have the sufficient legal training to do so and must be licensed to practice law by any jurisdiction in the United States.

Judges shall be appointed to four year terms and may be appointed to successive terms of office.

Section 1-2-3. Removal of Judges.

Any judge may be removed from office prior to the expiration of his term of office by the majority vote of the Executive Committee only upon the grounds of neglect of duty or gross misconduct, and only after the holding of a public hearing at which the judge, after being given not less than five days notice, is given an opportunity to answer all charges and present evidence in his own defense.

Section 1-2-4. Powers and Duties of Judges.

The following are the powers and duties of the judges of the Tribal Court:

1. Judges shall administer justice and discharge all duties imposed upon them by the Constitution of the Flandreau Santee Sioux Tribe and by law and shall hear and decide matters of a judicial nature and enter judgments and orders disposing of such matters. In the absence of the Court Clerk, a Judge may perform the clerk's duties in addition to his own and may receive cash bail or bonds whenever a clerk or other authorized person is not available.
2. The Chief Judge shall be responsible for the administration of all courts. Including the assignment of cases and the management of the Court's calendar and business. The Chief Judge shall designate an Associate Judge to act as Chief Judge in his absence.
3. All judges of the Court of the Flandreau Santee Sioux Tribe shall conform their conduct to the Code of Judicial Conduct as adopted by the American Bar Association until such time as a Flandreau Santee Sioux Tribe Code of Judicial Conduct is adopted by the Tribal Bar Association or the Tribal Judge's Association.

4. Every judicial officer has power to:
 - A. Preserve and enforce order in his immediate presence, and in proceedings before him, when he is engaged in the performance of his judicial duty;
 - B. Compel obedience to his lawful orders;
 - C. Compel the attendance of persons to testify in proceedings before him as provided by law;
 - D. Administer oaths to persons in proceedings before him and in any other case where such shall be necessary in the exercise of his powers and duties;
 - E. Punish for contempt to assure the effectual exercise of these powers.

Section 1-2-5. Disqualification of Judges.

1. A Judge shall disqualify himself from hearing any matter in which he has a direct interest or in which any party to the matter is a relative by blood, in the fourth degree (first cousins), or where he feels that he will not be able to render a just decision.
2. Any party to a legal proceeding may request a change of assignment of Judges to hear the proceedings by filing a written Affidavit of Prejudice giving sufficient, reasonable grounds why the judge assigned should not hear the case. Such affidavit shall be presented to the Judge assigned to hear the case who shall rule on the sufficiency of the affidavit, and, if sufficient, either disqualify himself or turn the affidavit over to the Chief Judge or some other judge for a decision as to whether a different judge should be assigned.

Section 1-2-6. Oath of Office of Judge.

Every Judge, prior to taking office or acting in such office, shall take the following oath or affirmation:

I, _____, do solemnly swear (affirm) that I will support, defend, and uphold the Flandreau Santee Sioux Tribal Constitution, that I will support, uphold and enforce the Law and Order Code of the Flandreau Santee Sioux Tribe, and that I will faithfully and impartially discharge the duties of my office to the best of my ability.

Said oath shall be administered by the President of the Flandreau Santee Sioux Tribal Executive Committee.

Section 1-2-7. Clerks of Courts.

There shall be a Clerk of the Tribal Court whose duties are as described Section 1-2-8. The appointment, qualifications, terms of office, and compensation of the clerk shall be determined by the Tribal Executive Committee.

Section 1-2-8. Duties of the Clerks.

It shall be the duty of the Clerk of the Tribal Courts to: supervise and keep all records, files, dockets or other records required to be kept by this Code, by rule of the Court, Tribal resolution or as otherwise established; and further to maintain a record of all proceedings of the Court; to administer oaths; to collect and account for all fines, bail or bond money, fees or other charges which cause money to come to the Court; to deposit and account for all such moneys in the manner prescribed by the Executive Committee; and to disburse such money as authorized by law. The Clerk shall further assist the Court in any way required to facilitate the performance of its duties, to aid the police or private citizens in their dealings with the Court, and may render advice and assistance to individual members of the Tribe or their counsel in the drafting of documents incidental to proceedings to the Court.

Section 1-2-9. Probation and Parole Officers.

1. The Executive Committee shall appoint one or more persons to be Probation and Parole Officers and shall determine the qualification, terms of employment and compensation of such officers.
2. Probation and Parole Officers, subject to the supervision of the Chief Judge, shall have the responsibility of assuring the faithful performance of probation or parole agreements by persons subject thereto, counseling such persons and their families, preparing pre-sentence or other reports as requested by a Tribal Judge or otherwise required by law.
3. Probation and Parole Officer shall have the authority of a Law Enforcement Officer to make arrests for violation of probation or parole agreements.

CHAPTER 3 – CONTEMPTS

Section 1-3-1. Acts or Failure to Act Which Constitute Contempt of Court.

The following acts or failures to act may serve as the basis for finding an individual or other entity in contempt of court:

1. Disorderly, contemptuous, or insulting behavior toward a Judge while holding court, which tends to interrupt the course of the proceedings or undermine the dignity of the Court.
2. A breach of the peace or loud boisterous conduct which tends to interrupt the courts in a judicial proceeding.
3. Deceit or abuse of process or proceedings of the court by a party or counselor to a judicial proceeding.
4. Disobedience to a lawful judgment, order, or process of the court.

5. Assuming to be an officer, spokesman, or other official of the court and acting as such without authority.
6. Rescuing or taking any person or property from the court or an officer acting under court order, contrary to the order of the court.
7. Unlawfully detaining or otherwise interfering with a witness or party to an action while such person is going to or from a court proceedings or attending court.
8. Disobedience of a subpoena duly served, or refusing to be sworn or answer as a witness.
9. Any other interference with the process, proceeding, or dignity of the Court or of a Judge of the court while in performance of his official duties.

Section 1-3-2. Civil Contempt.

The following rules apply to civil contempt:

1. A civil contempt is prosecuted to preserve, protect, enforce or restore the duly adjudicated rights of a party to a civil action against one under legal obligation to do or refrain from doing something as a result of a judicial decree or order.
2. Relief in a civil contempt proceeding may be coercive or compensatory in nature as to the complaining party and may include a fine payable to the court or to the complaining party.

Section 1-3-3. Criminal Contempt.

The following rules apply to criminal contempt:

1. Conduct which is directed at, or is detrimental to, the dignity and authority of the Court is a criminal contempt.
2. Criminal contempt is an offense which may be punishable, at the discretion of the Court based on the nature of the conduct in question, with a fine of up to five hundred dollars (\$500.00) and/or up to six (6) months in jail.

Section 1-3-4. Contempt Procedure.

The following rules apply to contempt procedures:

1. A direct contempt is one committed in the presence of the court or so near thereto as to be disruptive of the court proceedings, and such may be adjudged and punished summarily.
2. All other contempts shall be determined by a hearing at which the person accused of contempt is given notice and an opportunity to be heard.

CHAPTER 4 – JURISDICTION

Section 1-4-1. Territorial Jurisdiction.

The territorial jurisdiction of the Tribal Court shall extend to the Flandreau Santee Sioux Tribal Reservation as defined in the Title 1, Chapter 8, Section 8, subsection 8 of this code, including all lands, islands, waters, roads, and bridges or any interests therein, whether trust or non-trust status and notwithstanding the issuance of any patent or right of way within the boundaries of the Reservation and such other lands, islands, waters or any interest therein hereafter added to the Reservation.

Section 1-4-2. Personal Jurisdiction.

The jurisdiction of the Tribal Court shall extend to the following:

1. All persons within any geographical area referred to in Section 1-4-1 who are subject to the jurisdiction and governmental power of the Tribe, to the extent not prohibited by federal law;
2. All members of the Tribe, wherever located, exercising tribal rights pursuant to federal, tribal or state law;
3. Any person residing, located or present within the reservation for any civil cause of action;
4. Any person who transacts, conducts or performs any business or activity within the reservation, either in person or by agent or representative for any civil cause of action;
5. Any person who owns, leases, uses or possesses any property within the reservation, for any civil cause of action or charges of criminal offense prohibited by this code or other ordinances of the Tribe arising from such ownership, or use or possession;
6. Any person who commits a tortuous act or engages in tortuous conduct within the reservation, either in person or by agent or representative, for any civil cause of action arising from such act of conduct;
7. Any person who contracts to insure any person, property or risk, either in person or by agent or representative, located on the reservation at the time of the contract; or
8. Any person who engages in sexual intercourse on the reservation with respect to which a child may have been conceived.

The meaning of “person” for purposes of this Chapter, shall include, but not be limited to, any individual, entity, partnership, corporation, association, or public or private organization.

Section 1-4-3. Jurisdiction Over Property.

Subject to any contrary provision, exceptions, or limitations contained in either federal law or regulation, the Tribal Constitution, or as expressly stated elsewhere in this Code, the Tribal Court shall have jurisdiction over any real or personal property located on the reservation to determine the ownership thereof or rights therein or to determine the application of such property to the satisfaction of a claim for with the owner of the property may be liable.

Section 1-4-4. General Subject Matter Jurisdiction.

Subject to any contrary provisions, exceptions, or limitations contained in federal law or the Tribal Constitution, the Courts of the Flandreau Santee Sioux Tribe shall have jurisdiction over all civil causes of action arising within the territorial jurisdiction of the Tribe. The Court shall have exclusive jurisdiction over all actions arising under the Constitution or any law of the Tribe.

Section 1-4-5. Concurrent Jurisdiction.

The jurisdiction invoked by this Code over any person, cause of action, or subject shall be concurrent with any valid jurisdiction over the same of the courts of the United States, any state, or any political subdivision thereof; provided, however, this Code does not recognize, grant, or cede jurisdiction to any political or governmental entity in which jurisdiction does not otherwise exist in law.

Section 1-4-6. Exclusive Original Jurisdiction.

The Courts of the Flandreau Santee Sioux Tribe shall have exclusive original and appellate jurisdiction in all matters in which the Flandreau Santee Sioux Tribe, any of its governmental subdivision, whether governmental or commercial in nature, or its officers or employees are parties in their official capacities. Nothing contained in the preceding paragraph or elsewhere in this Code shall be construed as a waiver of the sovereign immunity of the Tribe or its officers or enterprises unless specifically denominated as such.

CHAPTER 5 – COUNSELORS AND PROFESSIONAL ATTORNEYS

Section 1-5-1. Lay Counsel.

Any person appearing as a party in a judicial proceeding before the tribal court shall have the right to be represented by a lay counselor (not a licensed attorney) and to have such person assist in the preparation and presentation of his case.

The Flandreau Santee Sioux Tribe shall have no obligation to provide or pay for such lay counselors and such obligation shall rest entirely with the person desiring such a counselor.

Any person appearing as a lay counselor shall be subject to the same ethical obligations of honesty and confidentiality towards his client and the court as would a licensed attorney, and the attorney/client testimonial privilege shall apply in appropriate circumstances.

Lay counselors shall be deemed officers of the court for purposes of their representation of a party and shall be subject to the disciplinary authority of the court in all matters relating to their representative capacity.

Section 1-5-2. Right to be Represented by an Attorney.

Any person appearing as a party in any action shall have the right to be represented by an attorney of his own choice and at his own expense; provided, however, that the Flandreau Santee Sioux Tribe has no obligation to provide or pay for such an attorney; provided further, that any such attorney appearing before the courts of the tribal court shall have first obtained admission to practice before such court in accordance with the procedures set forth herein.

Section 1-5-3. Eligibility for Admission.

Any attorney who is an active member in good standing of the South Dakota Bar, or any attorney certified and eligible to practice before the highest court of any other state or of the Supreme Court of the United States is eligible to be admitted to practice before the Courts of the Flandreau Santee Sioux Tribe.

Section 1-5-4. Procedure for Admission.

Any attorney desiring to be admitted to practice before the tribal court shall apply for admission by certifying under oath, either verbally or in writing to the following:

1. That he/she is an active member in good standing of the South Dakota State Bar or is certified and eligible to practice before the highest court of any other state or of the Supreme Court of the United States.
2. That if admitted to practice before the Tribal Court he/she will take the required oath as prescribed in the Law and Order Code for Attorneys and be bound thereby.

An admission fee of \$25.00 shall be tendered with the application, subject to return if the application is denied. The fee shall be waived for attorneys employed by the Tribe and for others upon Tribal Executive Committee resolution. The fee shall go into a special Bar Admission Fund to be used for training of tribal court staff, lay counselors and other officers of the Tribal Court. If a Flandreau Santee Sioux Tribal Bar Association is formed, then that association shall assume responsibility and control for the collection and expenditures of these fees. The Tribal Court or, if organized, the bar association, shall retain the right to establish and require the taking of a bar examination for admission to practice before the tribal court.

Upon receipt of an application for admission to practice before the tribal court, the Chief Judge shall review the application and may, but need not, investigate into the truth of the matters contained therein. If satisfied that the applicant meets the qualifications set forth herein, the Chief Judge shall notify such person who may then appear in person to take the oath prescribed herein or may subscribe his signature to such oath and forward it to the Chief Judge.

Upon taking of the oath, either orally or in writing, the Chief Judge shall cause a certificate to be issued evidencing the admission of the attorney to practice before the tribal court.

Any person denied admission shall have a right to appeal and have a due process hearing before the Tribal Appellate Court.

Section 1-5-5. Disbarment and Discipline.

Whenever it is made to appear to the Chief Judge that any attorney admitted to practice before the tribal court has been disbarred or suspended from the practice of law in the State of South Dakota or other state to which reference for admission to practice before the tribal court was made, he shall immediately be given notice at his last known address that he shall be suspended from practice before the tribal court for an indefinite period unless he appears within five (5) days and shows good cause why such order should not be made.

Any judge who finds an attorney admitted to practice before the tribal court to be in contempt of Court may, in addition to any other sanction imposed, order the attorney to appear within ten (10) days and show cause why he should not be suspended from practicing before the tribal court.

The Chief Judge may, upon receiving a written, verified complaint which indicates that an attorney admitted to practice before the tribal court has acted in an unethical or otherwise improper manner while functioning as an attorney, order such attorney to appear and defend himself at a hearing, to hear all evidence relevant to the matter, and may order the suspension of such an attorney if such appears reasonably necessary or appropriate. If the Chief Judge is the complainant, another trial judge shall hear and decide the matter.

All suspensions from practicing before the tribal court shall be for an indefinite period unless the Judge specifically orders otherwise. An attorney suspended for an indefinite period, or one suspended for a specific period, may petition the tribal court for permission to re-apply for permission to practice at the end of one year or the specific period of suspension, and such permission shall be granted if it is made to appear, at a hearing or otherwise as the court shall direct that he has been adequately reprovved and now appears willing to conduct himself in a proper manner, and that the petitioner has been reinstated to practice if previously disbarred or suspended in another jurisdiction.

Any person appearing as lay counsel for another may be suspended from further appearance as such for misconduct or improper behavior by any Judge upon the same conditions of notice and hearing provided professional attorneys.

Section 1-5-6. Oath of Attorneys and Counselors.

Upon admission to practice as provided herein, an attorney shall take the following oath, either verbally before the Court, or subscribe his signature to such oath if admitted without personally appearing:

I do solemnly swear (affirm): That I will support and defend the Constitution and By-laws, Law and Order Code and all resolutions and ordinances of the Flandreau Santee Sioux Tribe; that I will maintain the respect due the Courts and Judicial officers of the Flandreau Santee Sioux Tribe; that

I will not counsel or maintain any suit or proceedings which shall appear to me to be unjust, nor any defense except such as I believe to be honestly debatable under the law of the land; that I will employ for such purposes of maintaining the cause confided to me such means only as are consistent with truth and honor, and will never seek to mislead the judge or jury by any artifice or false statement or fact or law; that I will maintain the confidences and preserve inviolate the secrets of my client, and will accept no compensation in connection with his/her business except from him or with his knowledge and approval; that I will abstain from all offensive personality and advance no fact prejudicial to the honor or reputation of a party or witness, unless required in justice by the cause with which I am associated; that I will never reject, from any consideration personal to myself, the cause of the defenseless oppressed or delay any man's cause for lucre or malice. SO HELP ME GOD.

Section 1-5-7. [no text]

Section 1-5-8. Non-Resident Attorneys.

Any tribal Judge may waive the formal admission procedure and payment of the fee as required herein in the case of an attorney, not a resident of the State of South Dakota, making an appearance for the limited purpose of a single, specific case, and if such attorney is associated in such case with an attorney or counselor who is formally admitted to practice before the tribal court.

CHAPTER 6 – JURORS

Section 1-6-1. Qualifications of Jurors.

All Flandreau Santee Sioux Tribe Members pursuant to Article 2 of the FSST Constitution, who are on the eligible voter's list, eighteen years of age or older, of sound mind and who are able to read, write, and understand the English language, are eligible to serve as jurors.

Section 1-6-2. Jury List.

Pursuant to Title 20, Chapter 3, sections 1 and 2, the Clerk of Courts shall use the Membership Office's most current on-reservation per capita payment list as its eligible jury pool. If the list is unavailable, the Clerk of Courts shall use the Election Board's most recent eligible voters list kept on file at the Tribal Court in accordance with Title 20, Chapter 2, section 7; Chapter 3, section 2; and Chapter 6, section 13.

Section 1-6-3. Jury Trials.

The Clerk shall subpoena not less than twenty (20) persons from the list of eligible jurors to appear and be available to serve as jurors whenever a jury trial is scheduled in a matter before the Court. The selection from the list of eligible jurors shall be by lot or some other means of random, impartial selection. Selection of jurors to hear the case shall be accomplished as provided for in the rules of Procedure elsewhere in this Code.

Section 1-6-4. Power to Excuse Jurors.

Only the Judge assigned to hear a case shall have the power to excuse a person subpoenaed to appear as a juror, doing so on account of sickness, disability, extreme hardship or other good cause shown upon a request for excuse by the person subpoenaed.

Section 1-6-5. Compensation of Jurors.

Each juror who is called and reports for jury duty or who serves on a jury shall be entitled to receive such fees for daily service and/or mileage, if any, as the tribal council shall establish by resolution or as established by a rule of the court.

CHAPTER 7 – SUBPOENAS AND SERVICES OF OTHER PAPERS

Section 1-7-1. Issuance of Subpoenas.

The Clerk shall issue subpoenas to compel the attendance of witnesses, jurors or such other persons as a judge or prosecutor may direct for a trial, hearing, or other proceedings before the Tribal Court.

Section 1-7-2. Services of Subpoenas; Return of Service.

Subpoenas in all cases shall be served by tribal law enforcement officers, or other persons designated by the Chief Judge. Except by order of the court based on good cause shown, no subpoena shall be served between the hours of 10:00 P.M. and 7:00 A.M. or on Sundays or legal holidays. The person serving the subpoena shall endorse upon the copy served his name, title, and the place, date, and time of service. The person serving a subpoena shall make a return to the clerk stating the name of the case, the name of the person served, the place, date, and time of service and shall subscribe his name thereto under penalty of perjury for the intentional making of a false return.

CHAPTER 8 – GENERAL PROVISIONS

Section 1-8-1. Adoption by Reference Not a Waiver of Sovereign Power of the Flandreau Santee Sioux Tribe.

The adoption of any law, code or other document by reference into this Code shall in no way constitute a waiver or cession of any sovereign power of the Flandreau Santee Sioux Tribe to the jurisdiction whose law or code is adopted or in any way diminish such sovereign power, but shall result in the law or code thus adopted becoming the law of the Flandreau Santee Sioux Tribe.

Section 1-8-2. Publishing.

It shall be the duty of the Tribal Secretary to make publicly available this Code and the Constitution and By-Laws of the Flandreau Santee Sioux Tribe, including amendments. The Tribal Secretary shall make publicly available all regulations and interpretative documents related to criminal laws,

rules of evidence, and rules of criminal procedure (including rules governing the recusal of judges in appropriate circumstances) of the tribal government.

Section 1-8-3. Reserved.

Section 1-8-4. Sovereign Immunity.

Except as required by federal law, or the Constitution and By-laws of the Flandreau Santee Sioux Tribe, or if specifically waived by a resolution or ordinance of the Executive Committee specifically referring to such, the Flandreau Santee Sioux Tribe shall be immune from suit in any civil action, and its officers and employees immune from suit for any liability arising from the performance of their official duties. The Tribe shall not be liable for damages arising from the conduct of any of its officers or employees which is not within the scope of the officer or employees official duties.

Section 1-8-5. Actions By or Against Tribe or Its Officers or Employees.

In any action otherwise authorized by or against the Tribe or its officers or employees arising from the performance of their official duties, the following modifications to the rules and procedures set forth in this Code shall apply:

1. The periods of time specified for civil cases or appeals of either a civil or criminal nature in which an answer, reply or other pleading, or response of any kind shall be required, shall be double the period specified.
2. Neither the Tribe nor its officers or employees when involved in a civil action arising from the performance of their official duties shall be liable for the payment of the costs or expenses of the opposing party.
3. Neither the Tribe nor its officers or employees when involved in a civil action arising from the performance of their official duties shall be required to post security by bond or otherwise for any purpose.

Section 1-8-6. Limitations in Civil Actions.

Unless otherwise specifically provided in this Code, the following limitations on the bringing of civil actions will apply:

1. Any action against the Tribe or its officers or employees arising from the performance of their official duties must be commenced within one year of the date the cause of action accrued.
2. Any action against the Tribe or its officers derivative of lease of tribal land must be commenced within six years of the date the cause of action accrued.
3. Any other civil action must be commenced within three years of the date the cause of action accrued, provided, however, that any cause of action based on fraud or

misrepresentation shall not be deemed to have accrued until the aggrieved party has discovered the facts which constitute the fraud or misrepresentation.

The limitations of actions set out in this Section shall not be construed as a waiver of the Tribe's sovereign immunity.

Section 1-8-7. Principles of Construction.

The following principles of construction will apply to this Code unless a different construction is obviously intended:

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. Whenever a term is defined for a specific part of this Code, that definition shall apply to all parts of the Code unless a contrary meaning is clearly intended.
4. This Code shall be construed as a whole to give effect to all its parts in a logical and consistent manner.
5. If any provision of this Code or the application of any provision to any person or circumstance is held invalid, the remainder of this Code shall not be affected thereby and to this end the provisions of this Code are declared to be severable.
6. Any typographical errors or omissions shall be ignored whenever the full meaning of the provision containing the error or omission is otherwise reasonably ascertained to the Court.
7. Any other issues of construction shall be handled in accordance with generally accepted principles of construction giving due regard for the underlying principles and purposes of this Code.

Section 1-8-8. Definitions.

The following definitions will apply for the purpose of this Code:

1. "Constitution" shall mean the amended Constitution and By-laws of the Flandreau Santee Sioux Tribe.
2. "Court" shall mean the court of the Flandreau Santee Sioux Tribe.
3. "Indian" or "Indian Person" shall include any person of Indian descent who is a member of any federally recognized Tribe.

4. “Executive Committee” shall mean the governing body of the Flandreau Santee Sioux Tribe as provided for in the Constitution.
5. “Law Enforcement” means any individual or agency recognized and authorized by the Tribe to provide law enforcement services on the reservation.
6. “Member” shall include a person whose name appears on the Membership Roll of the Flandreau Santee Sioux Tribe.
7. “Tribe” shall mean the Flandreau Santee Sioux Tribe unless another or specific Indian Tribe is clearly intended.
8. “Reservation” shall mean the reservation of the Flandreau Santee Sioux Tribe which shall include all territory within the established boundaries of Moody County, South Dakota, as per U.S. Federal District Court, U.S. Department of Interior and other federal agency decisions.

LEGISLATIVE HISTORY

Title 1 of the Flandreau Santee Sioux Tribal Law and Order Code was enacted by the Flandreau Santee Sioux Executive Committee by Resolution Number 96-54, on September 3rd 1996; and was approved by the Bureau of Indian Affairs on September 16, 1996. The Executive Committee subsequently amended Title 1 by Resolution Numbers 18-141, on October 16th 2018; 11-52 on July 12, 2011; and 2022-18 on April 5, 2022.