

WHITECAP DAKOTA NATION

CONSTITUTION

Declaration of Whitecap Dakota Nation/Wapaha Ska Dakota Oyàŕe

Preamble

We are the Whitecap Dakota Oyàŕe, a Sovereign Nation, and this is our written Constitution. This Constitution exists alongside and is guided by our Dakota traditions and customs that we have passed down from generation to generation.

The Whitecap Dakota, by virtue of our Creator and original occupation of the land since time immemorial, has the inherent right to maintain, improve, and establish connection to our Dakota heritage, lands, resources, language, and laws as ancestors of our Nation, the Oçèti Šakòwiŋ, have exercised.

Our Dakota teachings and values are the roots of our Constitutional Principles and guide the interpretation and implementation of our Constitution.

The Whitecap Dakota and the Whitecap Dakota Nation Government are committed to the principle of honouring and respecting the customs and traditions of our ancestors and our oral history.

We, the people of Whitecap Dakota Nation, hereby adopt and approve this Constitution.

Our People and Territory

The Whitecap Dakota Nation Members are from the Seven Council fires, also known as the Oçèti Šakòwiŋ. The Dakota are the people from the plains organized under the laws of the Oçèti Šakòwiŋ.

Our traditional territories include the vast prairie region watered by the Missouri and the upper waters of the Saskatchewan Rivers, ranging from modern-day Wisconsin through Minnesota, and north to Ontario through the Prairie Provinces.

The Dakota are not a conquered Nation. Whitecap Dakota traditional territory has never been ceded, released, or surrendered.

From time immemorial we have been a sovereign, self-sufficient Nation with our own language, customs, traditions, and government, education, military, and economic systems.

From time immemorial we have occupied and protected the traditional territories of our people.

Our Teachings and Culture

We honour and respect our Dakota teachings, which belong to the Dakota people and the people of Whitecap Dakota, and commit to protect, promote, preserve, and maintain our distinct Dakota language, culture, and values.

We recognize the important role of our elders to preserve and protect our language, culture, and Dakota way of life and to pass it down from generation to generation.

It is our traditional way that all Whitecap Dakota Nation Members have a place in our community and a responsibility to contribute to our well-being. We are responsible for working together in accordance with kinship laws to promote the harmony of individuals and families within the Whitecap Dakota Nation.

The Principles of the Dakota people have endured over time and will persist and guide us into the future. We will retain our Nation's self-sufficiency and the shared holding of lands for all Whitecap Dakota Nation Members.

Our Alliances and Contributions to Canada

We have welcomed others into our traditional territories with the understanding that they respect our Dakota ways, teachings, and values. This includes alliances with other First Nations, as well as with the French and British Crowns.

Our long-standing alliance with the British Crown began in the 18th century and led to treaties, military alliances, and economic partnerships.

Our alliance with the British Crown was recognized through ceremony and by treaty in the 1700s. We as Dakota people played a vital role in the creation of Canada, through our alliances with the British Crown in the Pontiac War, the American Revolution, and again in the War of 1812.

Although our relationship with the Crown has diminished over time through legislation, policies, and practices such as the Indian Act and residential schools, as descendants of the Oçèti Šaḱòwiŋ, it is our inherent right to continue to build and restore our Nation and to restore the relationship with the Crown to one of mutual co-existence.

Our Inherent Right to Self-Govern

Our inherent right to self-government, self-determination, and sovereignty flows from the Creator and our natural laws, and is guided by our Dakota origin story, oral histories, traditions, and elders' teachings.

The Crown has recognized, affirmed, and protected our inherent right to self-government and self-determination through *The Royal Proclamation of 1763*, and s.35(1) of the *Constitution Act, 1982*. These rights are recognized in the Treaties with Canada and the British Crown and also within the *United Nations Declaration on the Rights of Indigenous Peoples*.

Through the Self-Government Treaty signed between the Whitecap Dakota Nation and Canada, Canada has recognized and affirmed that the Whitecap Dakota are an Aboriginal people of Canada within the meaning of section 35 of the *Constitution Act, 1982*, and possess the inherent right to self-government that are recognized and affirmed therein.

The Role of Our Constitution

The supreme written law of the Whitecap Dakota Nation is this Constitution, which gives legitimacy to the Whitecap Dakota Nation Self-Government Treaty. This Constitution creates the power and authority to make our own laws, build programs, and create an environment which will enable our people to find their place and thrive within our Nation.

The purpose of this Constitution is to honour and uphold Dakota traditional natural laws to guide the Whitecap Dakota in both modern and traditional ways of life to best promote the welfare of the Nation and future generations.

By virtue of these founding Principles, Whitecap Dakota Nation Members exercise the rights and responsibilities inherent in the governing of our members, as our ancestors have since time immemorial, through the adoption of this Constitution.

PART 1 DEFINITIONS AND INTERPRETATION

1. In this Constitution:

- (a) **“Election Code”** means the *Whitecap Dakota First Nation #94 Custom Election Act, 2020*, as amended from time to time.
- (b) **“Elector”** means any WDN Member meeting the eligibility requirements as defined by the Election Code, as may be amended from time to time.
- (c) **“Finance Code”** means the Whitecap Dakota Nation Financial Management and Accountability Code set out in Part 9 of this Constitution.
- (d) **“Governance Code”** means the Whitecap Dakota Nation Governance Code which is outlined in Part 5 of this Constitution.
- (e) **“Membership Code”** means the *Whitecap Dakota First Nation Membership Code*, as amended from time to time.
- (f) **“Land Code”** means the *Whitecap Dakota First Nation Land Code, 2015*, as amended from time to time.
- (g) **“Membership Meeting Vote”** requires that at least 50% plus one of Electors at a duly convened Membership Meeting, held in accordance with the Governance Code, vote in favor of the question posed.
- (h) **“Principles”** means the Dakota principles which include, but are not limited to, Wawóhoda/Oho’da – Respect; Wówicake/Wóowotaŋna – Honesty; Wóohitika – Courage; Wóksape – Wisdom; Wowahbadaŋ – Humility; Wówakišake – Endurance; and Wóyuonihaŋ – Honor
- (i) **“Ratification Vote”** is a vote that requires that the threshold set out at section 23 be met.
- (j) **“Register of Laws”** means a register where an official list or record of WDN Laws are kept by the Whitecap Dakota Nation Government.
- (k) **“Self-Government Treaty”** means the agreement between the Whitecap Dakota Nation and His Majesty the King in right of Canada entitled “A Self-Government Treaty

Recognizing the Whitecap Dakota Nation / Wapaha Ska Dakota Oyàŕe”, including the Schedules.

(l) **“WDN Act”** is a WDN Law approved and implemented in accordance with section 28 of this Constitution.

(m) **“WDN Code”** is a WDN Law approved and implemented in accordance with sections 25, 26, and 27 of this Constitution.

(n) **“WDN Election”** means a general election or a by-election for the positions of Chief and Councillors of the WDN in accordance with the Election Code.

(o) **“WDN Institution”** means an organization, body, or entity controlled by Whitecap Dakota that administers a specific government policy or program and includes the WDFN public service.

(p) **“WDN Lands”** are those lands, or any portion of those lands, defined in the *Whitecap Dakota First Nation Land Code, 2015*, as amended from time to time, and includes all rights and resources belonging to those lands.

(q) **“WDN Law”** includes altogether this Constitution, WDN Codes, and WDN Acts.

(r) **“WDN Member”** means a person whose name appears on, or is entitled to appear on, the Membership List referenced in the Membership Code.

(s) **“Whitecap Dakota”, “WDN”, or “Nation”** means the Whitecap Dakota Oyàŕe or Whitecap Dakota Nation.

(t) **“Whitecap Dakota Council” or “Council”** means the governing Council and law-making body of the Whitecap Dakota Nation in accordance with Part 3 of this Constitution and the Governance Code.

(u) **“Whitecap Dakota Government” or “WDN Government”** includes both the elected Whitecap Dakota Council and unelected officials in accordance with Part 3 of this Constitution and the Governance Code.

2. This Constitution prevails over all other WDN Laws.

PART 2 PURPOSE

3. This Constitution serves as the supreme written law of the Whitecap Dakota Nation by:

- (a) Creating the Whitecap Dakota Government to replace the Whitecap Dakota Band Council established through the *Indian Act*;
- (b) Recognizing and giving effect to the Self-Government Treaty made with His Majesty the King in Right of Canada;
- (c) Incorporating and adopting existing WDN Laws, such as the Land Code, Membership Code, and Election Code, as part of WDN's framework of laws;
- (d) Providing for the exercise of legislative powers and duties by the Whitecap Dakota Government to adopt new Codes, Acts, regulations and policies; and
- (e) Honouring and upholding Dakota traditional laws that can be combined with modern and traditional ways of life to promote the welfare and sustainability of the Nation and its future generations.

PART 3 WHITECAP DAKOTA GOVERNMENT

- 4. The Whitecap Dakota people as WDN Members create the Whitecap Dakota Government through this Constitution.
- 5. The Whitecap Dakota Government is determined by WDN Law.
- 6. The Whitecap Dakota Council is comprised of a Chief and no more than four (4) Councillors, as provided for in the Governance Code.

PART 4 WHITECAP DAKOTA GOVERNMENT AND WDN MEMBERS

- 7. The Whitecap Dakota Government will honour traditional Dakota governance practices within a modern context, and its responsibilities will include:
 - (a) Supporting the well-being of WDN Members;
 - (b) Promoting and enhancing Dakota culture and language in the Nation;
 - (c) Supporting and enabling WDN Members to honour Dakota teachings and Dakota ways;
 - (d) Working with other Dakota nations to revitalize the traditional governance system of the Oçèti Šakòwiŋ;
 - (e) Advocating for and promoting Whitecap Dakota interests by building alliances with other governments, businesses, and organizations;

- (f) Upholding and abiding by the Principles of this Constitution; and
 - (g) Being transparent and accountable to WDN Members.
8. The Whitecap Dakota Government will recognize and protect the rights of WDN Members set out in the *Canadian Charter of Rights and Freedoms* and this Constitution.
9. WDFN Members will respect and honour our ancestors and Dakota laws, practices, and customs, and will hold themselves accountable, along with the Whitecap Dakota Government, to promote a healthy and safe Nation for all WDN Members. This includes:
- a) Respecting Dakota kinship laws and Principles by working together, being good relatives, and respecting one another;
 - b) Honouring the sense of duty and responsibility to one another and all living things;
 - c) Restoring and revitalizing traditional Dakota ceremonies and language as part of a community-wide, collective process;
 - d) Adopting a work ethic in education and employment as a contributing citizen to strengthening our Nation now and for future generations; and
 - e) Following the traditional laws which acknowledge and recognize that no one WDN Member is above or below other WDN Members.

PART 5 WDN GOVERNANCE

10. WDN shall enact a Governance Code that will:
- (a) Subject to Part 3 of this Constitution, set out the structure and composition of the Whitecap Dakota Government, including the number of Councillors who will constitute the Whitecap Dakota Council, and their term of office;
 - (b) Set out the processes and procedures for changing the composition of the Whitecap Dakota Council;
 - (c) Set out the duties and responsibilities of the Whitecap Dakota Council;
 - (d) Provide a standard of ethics that the Whitecap Dakota Government must follow;
 - (e) Outline principles and processes relating to conflicts of interest;

- (f) Set out the expectations for Whitecap Dakota Council conduct and the processes and procedures for removal of elected officials;
- (g) Require respect for WDN Members' rights to privacy and access to information;
- (h) Set out the Whitecap Dakota Oath of Office;
- (i) Set out Whitecap Dakota Council's ability to establish and maintain committees and boards;
- (j) Set out WDN Law making processes and procedures, including a requirement for three (3) readings of a draft WDN Law before approval, and provisions for passing WDN Laws in specified emergency circumstances;
- (k) Require adequate WDN Member consultation and input when approving and passing WDN Laws in order to ensure informed consent and open and transparent processes;
- (l) Set out mechanisms and criteria for delegating authorities conferred through WDN Law;
- (m) Provide for a Register of Laws; and
- (n) Set out the roles, rights, and responsibilities of non-Members residing on WDN Lands, including:
 - (i) Mechanisms for input into Whitecap Dakota Government decision making; and
 - (ii) Rights of appeal and redress mechanisms for people who are not WDN Members, but who are adversely affected by decisions of the Whitecap Dakota Government.

11. The Governance Code shall be developed, implemented, and interpreted in a manner that observes and respects traditional Dakota governance structures, practices, and values.

PART 6 ELECTIONS

12. WDN Elections will continue to be held in accordance with WDN Law, including the Election Code.

13. WDN Laws relating to elections will:

- (a) Set out the processes and procedures for WDN Elections;

- (b) Set out the processes and procedures for appealing decisions relating to WDN Elections;
- (c) Set out the requirements and procedures relating to partial terms of WDN elected officials; and
- (d) Set out eligibility requirements for voting and running for Whitecap Dakota Council.

PART 7 MEMBERSHIP

- 14. WDN Membership will be determined in accordance with WDN Law and the Membership Code.
- 15. WDN Laws relating to membership will:
 - (a) Promote and maintain the cultural integrity, social harmony, and economic stability of Whitecap Dakota based on traditions and values of the Dakota people;
 - (b) Ensure that membership is not unjustly taken away from any WDN Member;
 - (c) Set out the criteria for membership in WDN;
 - (d) Set out the processes and procedures for applying for membership in WDN; and
 - (e) Set out the processes and procedures for appealing decisions about entitlement to membership in WDN.

PART 8 WHITECAP DAKOTA LANDS AND RESOURCES

- 16. WDN Lands will continue to be governed by WDN Law, in accordance with the Land Code.
- 17. WDN Lands will continue to be set apart by His Majesty the King in Right of Canada for the exclusive use and benefit of the Whitecap Dakota.
- 18. WDN Council may, pursuant to the Land Code, enact such other WDN Laws as it considers necessary for the proper administration of WDN Lands.
- 19. WDN Laws relating to WDN Lands will:
 - (a) Set out the principles, rules, and structures that apply to WDN Lands;

- (b) Set out principles, rules, and procedures that apply to changes to boundaries of WDN Lands and to land transactions conducted by the Whitecap Dakota Government;
- (c) Ensure that WDN Lands are preserved, protected, maintained, and respected;
- (d) Allow for WDN to hold title to fee simple lands and for WDN Law to apply on those lands, subject to any agreements with other governments; and
- (e) Ensure that the Whitecap Dakota Government consults with WDN Members regarding matters involving WDN Lands and land use planning.

PART 9 FINANCIAL MANAGEMENT AND ACCOUNTABILITY

- 20. The Whitecap Dakota Nation's financial management and accountability will be governed by WDN Law.
- 21. WDN will enact a Finance Code which will:
 - (a) Set out the principles and procedures of WDN financial management and administration;
 - (b) Require annual audited financial statements;
 - (c) Require annual reporting to WDN Members; and
 - (d) Ensure that the financial management of WDN will be prudent, transparent, accountable, and provide effective and efficient use of WDN's financial resources.

PART 10 WDN LAWS

- 22. WDN will govern itself primarily through this Constitution, the Governance Code, the Finance Code, other WDN Codes, and WDN Acts.
- 23. A Ratification Vote requires that:
 - (i) At least 25% of all Electors participate in the Ratification Vote;
 - (ii) At least 25% of all Electors cast their vote in favor of the question; and
 - (iii) At least 50% plus one of the Electors who do participate in the Ratification Vote, vote in favor of the question.

24. A Membership Meeting Vote requires that at least 50% plus one of Electors present at a duly convened Whitecap Dakota Membership Meeting vote in favor of the question posed.
25. The Governance Code and the Finance Code must be:
 - (a) Approved and implemented by Ratification Vote; and
 - (b) Amended by Membership Meeting Vote.
26. Subject to section 25, all WDN Codes, excluding the Governance Code and Finance Code, must:
 - (a) Be mandated by this Constitution;
 - (b) Be approved, implemented, and amended by Membership Meeting Vote; and
 - (c) Provide authority for WDN Acts based on principles and criteria set out in the WDN Code.
27. Existing WDN Codes are deemed to be ratified as WDN Codes under this Constitution, including the:
 - (a) Land Code;
 - (b) Election Code; and
 - (c) Membership Code.
28. WDN Acts must:
 - (a) Be authorized by a WDN Code or this Constitution based on the jurisdictions set out in the Self-Government Treaty;
 - (b) Be approved by the Whitecap Dakota Council based on procedures established in the Governance Code; and
 - (c) Be amended by the Whitecap Dakota Council based on procedures established in the Governance Code.

PART 11 WDN INSTITUTIONS AND INTERGOVERNMENTAL RELATIONS

29. Whitecap Dakota recognizes the vital role that WDN Institutions contribute to the Nation's sustainability.

30. The Whitecap Dakota Council may establish WDN Institutions to perform functions of the Whitecap Dakota Government.
31. The Whitecap Dakota Council has authority to enter into agreements with other entities, including governments and corporations, for the benefit of WDN.
32. The Whitecap Dakota Government has authority to hire and maintain employment relationships with employees, including those employees constituting the public service, which will be administered in accordance with a human resource policy as approved by the Whitecap Dakota Council.

PART 12 DISPUTE RESOLUTION

33. The validity of a WDN Law may be challenged in the Court of King's Bench of Saskatchewan, the Federal Court of Canada, or a tribal court created by WDN.
34. Any contravention of this Constitution by the elected Whitecap Dakota Council may be met by penalties and consequences including the removal from office in accordance with WDN Law.

PART 13 VOTING PROCEDURES

35. The Ratification Votes, Membership Meeting Votes, and other Nation approvals will be governed by WDN Law and the WDN Governance Code.
36. WDN Laws relating to Ratification Votes, Membership Meeting Votes, and other Nation approvals will:
 - (a) Set out the processes and principles of Ratification Votes, Membership Meeting Votes, and other Nation approvals; and
 - (b) Ensure that WDN Members are appropriately consulted while allowing WDN to make decisions efficiently and effectively.

PART 14 RATIFICATION OF CONSTITUTION

37. Ratification of this Constitution requires that a Ratification Vote be held.

PART 15 AMENDMENT OF CONSTITUTION

38. Amendments to this Constitution must be approved by way of a Ratification Vote.

PART 16 GENERAL AND COMING INTO FORCE

39. This Constitution will come into legal effect on September 1, 2023.

