



Keex' Kwaan

Peacemaking Code

Organized Village of Kake

CHAPTER 1 KEEX' KWAAN PEACEMAKING COURT STRUCTURE

Adopted July 2024

CHAPTER 2 KEEX' KWAAN COURT PROCEDURES

CHAPTER 3 KEEX' KWAAN COURT OF APPEALS

**CHAPTER 4 KAKE YOUTH CIRCLE PEACEMAKING STRUCTURE
AND PROCEDURES**

CHAPTER 1

KEEX' KWAAN PEACEMAKING COURT STRUCTURE

1.01.010 Establishment and Purpose of the Keex' Kwaan Peacemaking Court	2
1.01.020 Jurisdiction of the Keex' Kwaan Peacemaking Court	2
1.01.030 Oath of Confidentiality, Fairness, and Impartiality	3
1.01.040 Prosecutor/ Presenting Officer	3
1.01.050 Spokesperson – Qualifications	3
1.01.060 Spokesperson’s Oath	4
1.01.070 Sovereign Immunity	4
1.02 Court Structure and Peacemakers	4
1.02.010 Keex’ Kwaan Peacemaking Court System	4
1.02.020 Peacemakers	5
1.02.030 Chief Peacemaker	6
1.02.040 Conflict of Interest for Keex' Kwaan Peacemakers	6
1.02.050 Advisors to the Keex' Kwaan Peacemaking Court	6
1.02.060 Scope of Rules of Peacemaker and Judicial Conduct	6
1.02.070 Peacemaker and Judicial Conduct – Generally	6
1.02.080 No Outside Discussion of Cases	6
1.02.090 Informal Contacts with Law Enforcement to be Avoided	6
1.02.100 Independence of the Court	7
1.02.110 Removal of Peacemakers and Judges	7
1.02.120 Removal of Peacemaker and Judges – Procedure	7
1.03. Administration of the Keex’ Kwaan Peacemaking Court	7

1.03.010. Keex' Kwaan Peacemaking Court Clerk	7
1.03.020 Court Records – Generally	8
1.03.030 Court Clerk – Duties.....	8
1.03.040 Court Clerk – Authority.....	9
1.03.050 Records – Removal by Permission Only	9
1.03.060 Access to Court Records.....	9
1.03.070 Court Docket	9
1.03.080 Documents Filed with the Clerk.....	9
1.03.090 Documents Given to Other Parties.....	10
1.03.100 Orders Given to Parties.....	10
1.03.110 Roster of Spokespersons.....	10
1.03.120 Bar Admission Fee	10
1.03.130 Copies of Laws Available.....	10
1.03.140 Recording Hearings.....	10
1.03.150 Court Finances.....	10

Chapter 1 Keex' Kwaan Justice System

1.01.010 Establishment and Purpose of the Keex' Kwaan Peacemaking Court

The Organized Village of Kake (OVK) Tribal Council of Keex' Kwaan (Kake, Alaska) is the governing body of a federally recognized tribe, and hereby establishes the Keex' Kwaan Peacemaking Court in which the Tribe's judicial powers shall be vested. The council does so under its inherent sovereignty, under Article V of the Constitution and By-Laws of the Organized Village of Kake IRA, and under any powers so implied or delegated by Congress.

The Keex' Kwaan Peacemaking Court System shall consist of a Standing Peacemaking Court, a Circle Court, a Community Court, a Court of Appeals, and such other Courts as the Keex' Kwaan OVK Council may establish. The Keex' Kwaan Peacemaking Court's purpose is to protect the health, safety, and welfare of the Keex' Kwaan people.

The courts shall address problems through a fair and consistent application of written laws and Keex' Kwaan's cultural values and traditions. Keex' Kwaan's core tribal values, passed on today orally (unwritten) are the "laws of the land" that have held our association of clans together for thousands of years to form Keex' Kwaan. Yesterday our ancestors formed the sacred clan of Guwakaan, the Deer People. They used this clan as the process of Peacemaking and processing disputes. No moiety of the Eagle or Raven claims this animal as their clan symbol, because no one can own the process of Peacemaking. Today we begin to write down a living document that will grow with us and be amended by Keex' Kwaan to meet the needs of the Tribe.

1.01.020 Jurisdiction of the Keex' Kwaan Peacemaking Court

The Keex' Kwaan Peacemaking Court shall have the authority to exercise the inherent judicial powers of a federally recognized tribe. These powers include, but are not limited to, matters relating to the governmental processes internal to the Tribe and over matters arising:

- A) In the Organized Village of Kake Tribe's Indian country and territory includes Alaska Native Village Statistical Area covering all or any portion of a Native village (as defined in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602)), as depicted on the applicable Statistical Area Program Verification map of the Bureau of the Census.

- B) Traditional territory and acquired lands;
- C) Native townsite lands and Native allotments owned or occupied by citizens/members of, or persons eligible for citizenship/membership in, the Tribe;
- D) All hunting, harvesting, fishing, and subsistence lands, sites, camps, and waters, including boats and vessels thereon, owned or occupied by citizens/members or person eligible for citizenship/membership in the Tribe, or;
- E) All federal, state, or private lands over which the Tribe is delegated legislative or judicial authority by any federal or state law or agency or by any private party or private agreement;
- F) Over all citizens, enrolled or eligible, regardless of where they live or do business;
- G) Over all persons and entities who enter consensual relations with the Tribe or Tribal citizens;
- H) Over all persons and entities whose activities affect the political integrity, economic security, or the health, safety or welfare of the Tribe or Tribal citizens; or
- I) Over any matters so implied or delegated by congress.

1.01.030 Oath of Confidentiality, Fairness, and Impartiality

Keex' Kwaan peacemakers, judges and justices, the peacemaking court administrator and clerk, participants of circles used for sentencing, advisors of the peacemaking court and any other OVK employees or other officials who participate in a case that mandates confidentiality shall take the following oath of confidentiality, fairness, and impartiality prior to all cases:

"I _____, do solemnly swear and affirm that I will not discuss the proceedings of this case outside of the chambers of the Keex' Kwaan Peacemaking Courtroom. I shall maintain respect due the Keex' Kwaan Peacemaking Court by striving for fairness and impartiality in the Peacemaking Court proceedings that come before me."

Violators of this oath may be subject to removal under Section 1.02.110 of this Ordinance, subject to termination from employment if they are OVK employees, or subject to being in contempt of the Keex' Kwaan Peacemaking Court.

1.01.040 Presenting Officer

The Tribe may be represented in court by a presenting officer, whose qualifications and authority shall be specified by an approved job description or by court rule.

1.01.050 Spokespersons – Qualifications

Persons desiring to appear as spokespersons, i.e., who represent another person before the court, must meet the following qualifications:

- A) Be at least 21 years of age;
- B) Be of good moral character;
- C) Be familiar with the laws of the Organized Village of Kake which apply in their cases; and
- D) Have taken and signed the spokesperson’s oath.

1.01.060 Spokesperson's oath

Persons desiring to appear as spokespersons before the court must take the following oath, signed before a Peacemaker or judicial officer:

I, _____, do solemnly swear:

- 1. I am familiar with the laws of the Organized Village of Kake which apply to my case and will become familiar with those laws which apply to cases in which I represent people before this Court in the future.*
- 2. I will at all times maintain the respect due to the Court and its officers.*
- 3. I will abide by the rules of the Court*

1.01.070 Sovereign Immunity

Nothing in this statute shall diminish, impair, or be construed to waive the right of OVK to assert the defense of sovereign immunity, and nothing contained herein shall impair the validity of this defense; and the right to assert that defense is and shall remain inviolable. Nothing in this title shall be deemed to constitute a waiver by the OVK of its sovereignty, rights, powers or privileges.

1.02 Court Structure, Peacemakers, Judges and Justices

1.02.010 Keex' Kwaan Court System

A) Standing Peacemaking Court Structure: The Standing Keex' Kwaan Peacemaking Court shall be composed of a pool of at least 7 Peacemakers and no more than 12; 7 may be OVK council members and the others shall be resident Tribal citizens who do not sit on the council. For each case that a panel of Peacemakers is used, three Peacemakers shall be selected from the pool of Peacemakers to hear the case.

B) Standing Community Court Structure: The Standing Keex' Kwaan Community Court shall be composed of a pool of at least 2 Judges. Community court Judges shall be assigned cases in which local judges/peacemakers are not able to hear. For Special Tribal Criminal Court Jurisdiction as defined by 25 USC 1304 , a judge presiding over the proceeding shall have sufficient legal training to preside over criminal proceedings; and be licensed to practice law by any jurisdiction in the United States.

C) OVK Council Peacemakers

OVK Council members may be in the pool of Keex' Kwaan peacemakers, provided they meet the qualifications for eligibility of all Peacemakers.

D) Resident Tribal Citizen Peacemakers

The resident Tribal citizen peacemakers shall be appointed by the Keex' Kwaan OVK council, by an affirmative vote of at least five council members. They shall serve 3-year terms but shall be eligible for reappointment. In the event of a vacancy, the OVK council may appoint a peacemaker to serve during the remainder of the unexpired term, by five affirmative votes of the OVK council.

E) Visiting Peacemakers, Judges or Justices

The OVK council may appoint visiting peacemakers, judges and justices from outside the

village. For the peacemaking court, when the Chief Peacemaker determines that it is in the best interest of the Tribe to do so for a particular case using the panel format, visiting peacemakers may be used provided that at least one Peacemaker on the panel is a resident or council Peacemaker. Such appointment shall be made by an affirmative vote of at least five OVK council members.

Visiting peacemakers, judges and justices may be peacemakers from other Tribal Courts or attorneys licensed by an accredited Bar Associations, provided they are members/citizens of a federally recognized tribe, to hear cases in situations where the Keex' Kwaan peacemakers have significant conflicts of interest, or when a case has legal complications requiring an outside peacemaker, judge or justice or when specific qualifications are required by or Federal law. When a visiting Peacemaker, judge or justice is used, there shall be an agreement in writing made as to the terms of any financial arrangements, and that the visiting Peacemaker, judge or justices shall apply the laws of the Keex' Kwaan Tribe to the fullest extent possible.

F) Intertribal Courts

The Keex' Kwaan Peacemaking Court may join with other Tribal Courts to form an Intertribal Court for specific cases or subject matters involving persons who are subject to the Keex' Kwaan Court. The Keex' Kwaan Peacemaking Court may also participate in a permanent Intertribal Court, provided that the Keex' Kwaan OVK Council determines it is in the best interest of the Keex' Kwaan Tribe, and that the relationship between the Keex' Kwaan Peacemaking Court System and such Intertribal Court are clearly described in written documentation and is determined to serve needs of the Organized Village of Kake.

G) Keex' Kwaan Appellate Court

There is hereby established the Keex' Kwaan Appellate Court. The structure and procedures for the Keex' Kwaan Appellate Court are outlined in Chapter 3 of this Code.

H) Specialty Courts

The OVK Council may establish specialty Courts through OVK ordinance.

1.02.020 Peacemakers, Judges and Justices

A) Qualifications of Resident Peacemakers

The Resident Peacemakers appointed to serve on the standing Keex' Kwaan Peacemaking Court shall be honorable, respected tribal citizens who reside in Kake and are at least 21 years of age or older.

B) Qualifications for all Peacemakers, Judges and Justices

To serve as peacemakers, they shall be eligible for appointment provided they can pass a background check in compliance with Public Law 101-630; have satisfactorily completed or be willing to complete a minimum of forty (40) hours of judicial training in trial and appellate court process, law, and federal Indian law; or, have completed a minimum of forty (40) hours of prior judicial or Tribal court-related experience.

1.02.030 Chief Peacemaker Appointment

Every two years, the council shall designate a person to hold the office of chief peacemaker and assign authority over court oversight to that position.

1.02.040 Conflict of Interest for Keex' Kwaan Peacemakers, Judges and Justices

Peacemakers of the Keex' Kwaan Peacemaking panels shall remove themselves from hearing a case involving first degree relatives including parents, children, spouses or significant others, siblings, grandparents, grandchildren, and anyone living in their same home, except that in emergency situations where temporary decisions are made, Peacemakers, judges and justices may be so related. Peacemakers judges and justices shall remove themselves from any cases in which they have any significant, direct, personal financial or other interest. A peacemaker, judges and justices should disqualify themselves from hearing a case in which they peacemaker have an interests that may be affected by the outcome, has formed an opinion about the merits of the case, or has personal knowledge of the facts, which would prevent them from considering all sides impartially.

1.02.050 Advisors to the Keex' Kwaan Peacemaking Court

The peacemakers, judges and justices may confer with elders, council members, or other appropriate consultants during hearings, and may call upon the Keex' Kwaan elders to give answers to questions put to them, which may be recorded for future generations.

1.02.060 Scope of Rules of Peacemaker, Judge and Justice Conduct

These rules apply to the Keex' Kwaan Court peacemakers, judges and justices.

1.02.070 Peacemaker, Judge, and Justice Conduct – Generally

A peacemaker, judge and justice shall at all times seek to carry out his or her duties with fairness and diligence, and shall:

- A) always conduct themselves in such a way as to promote respect for the law;
- B) not let social relationships, their political or religious views, or criticism or praise influence the decisions they make in the Court;
- C) be patient, courteous, careful, and conscientious in the performance of all official duties; and
- D) maintain order in the Courtroom.

1.02.080 No Outside Discussion of Cases

A peacemaker, judge and justice shall not discuss any case, for which they are responsible, with any party to the case.

1.02.090 Informal Contacts with Law Enforcement to be Avoided

A peacemaker, judge and justice shall avoid informal contacts with law enforcement in which a case is discussed.

1.02.100 Independence of the Court

A peacemaker, judge and justice shall not engage in any outside activity that would be inconsistent with the court's status as formed. A peacemaker, judge and justice shall not be swayed by public criticism or clamor regarding his or her official actions. A peacemaker, judge

or justice shall make no public comment on matters pending before the court except in the course of official proceedings.

1.02.110 Removal of Peacemakers, Judges, and Justices

A) Automatic Removal: Keex' Kwaan peacemakers, judges and justices shall be removed if they are convicted of a felony under tribal, state or federal law while in office. A peacemaker shall be removed if they move out of the Village but is eligible as a visiting peacemaker.

B) Good Cause Reprimand or Removal

Peacemakers, judges or justices may be reprimanded or removed for cause by a two-thirds vote of the Tribal Council at a meeting at which a quorum is present. Good cause shall include but is not limited to:

1. Use of official position for personal gain;
2. Failure to perform or neglect in performing judicial duties;
3. Excessive use of intoxicants;
4. Violation of the rules of judicial conduct, or;
5. Any Peacemaker, judge or justice of the Keex' Kwaan Court may be removed by a written petition signed by at least 30% of the qualified Keex' Kwaan OVK Citizen voters.

A peacemaker, judge or justice shall not be removed because the Tribal council disagrees with a decision they have made in their official capacity.

1.02.120 Removal of Peacemaker, Judge and Justice – Procedure

A) Any person who charges that a Peacemaker, judge or justice should be removed or reprimanded shall provide the Tribal council with a sworn written statement setting forth the specific factual basis for the charge and the names of all persons who have firsthand knowledge of those facts. The Tribal council shall determine whether the charge constitutes sufficient grounds for reprimand or removal. If so, it shall notify the peacemaker, judge or justice of the charge, in writing. The notice shall be delivered to the peacemaker, judge or justice at least 10 days before a council meeting convenes to consider the matter. The peacemaker, judge or justice shall be given an opportunity to answer the charges at the Tribal council meeting.

B) A peacemaker, judge or justice may be removed by an affirmative vote by a minimum of five OVK Tribal council members using a standard of clear and convincing proof to have violated the judicial code of ethics, failed to meet the qualifications for peacemaker or other charge. Ethical breaches include, but are not limited to, failure to perform duties impartially or diligently, engaging in outside activities that create a risk of conflict with judicial duties, breaching confidentiality rules, and engaging in inappropriate political activity. The decision of the Tribal council shall be final.

Chapter 1.03 Administration of the Keex' Kwaan Court

1.03.010. Keex' Kwaan Court Administrator and Court Clerk

The OVK Council shall appoint the Keex' Kwaan peacemaking court administrator, court clerk, and an alternate court clerk.

1.03.020 Court Records – Generally

All testimony and arguments given in open court shall be recorded and made part of the official record of each case and shall be kept by the court administrator or their designee with other official records. Recordings shall be retained for at least one year after final disposition, including any appeal taken. Records kept by the court shall include:

- A) a calendar of scheduled court hearings;
- B) the roster of members of the court bar;
- C) a separate file for each case and criminal prosecution brought in the court, with a copy of every document submitted in the case;
- D) a payment ledger showing all funds received and disbursed in the course of each case or prosecution, and;
- E) a docket book that shows, for each case filed, the case file number, and the parties' names.
- F) every court file shall contain be organized chronologically, and a document cover with a short description of every document filed and every order issued in the case, including the date of the order or filing.
- G) all files shall be secured in a fireproof locking file cabinet.

1.03.030 Court Administration – Duties

The court administration or their designee shall have the following duties:

- A) Keep court records in all cases filed;
- B) Attend all court proceedings and keep a record of such proceedings;
- C) Keep a calendar of court hearing dates and help schedule court proceedings;
- D) Notify the peacemakers, judges, justices, and parties, as required in these rules, of actions taken, hearings scheduled, and other developments requiring their attention;
- E) Record money for fines and costs charged to parties in court cases;
- F) Maintain and update a set of the laws of the Tribe;
- G) Answering phone calls and receiving mail for the court;
- H) Maintain a list of persons who are admitted to the court bar;
- I) Maintain and publish a court docket for each day in which court is in session;

- J) Calling the chief peacemaker to review petitions and determine which peacemakers, judges or justices shall sit on cases;
- K) Setting up teleconference or virtual calls or hearings as necessary and record hearings;
- L) Assisting with drafting court orders for peacemakers, judges or justices to review and sign;
- M) Maintaining records of court finances;
- N) Maintaining list of current peacemakers, judges and justices, and their terms;
- O) Assisting with details of a training schedule;
- P) May be designated youth coordinator, and;
- Q) Other duties as assigned.

1.03.040 Court Administration – Authority

The court administration or their designee shall have the authority to administer oaths for persons making affidavits, to prepare and certify the official record of a court hearing, to issue notices of hearing and summonses, subpoenas and such other authority vested by this title or by other laws of the Organized Village of Kake.

1.03.050 Records – Removal by Permission Only

Official records of the court shall be kept in the court administration’s office, and these records shall not be removed except with the permission of the chief peacemaker.

1.03.060 Access to Court Records

The case files of the court shall be accessible on a limited basis. The presenting officer, peacemaker, judges, justices, law enforcement, and the court administrator and clerk shall have access to the files as required by their official duties. The wrong doers in criminal cases and parties to civil cases and their attorneys and spokespersons shall have access to information contained in their case files. Other persons may have access to case files by written permission of the wrong doer in criminal cases, or of all parties to a civil case. This rule may be waived by the chief peacemaker, in their discretion, upon written request and good cause shown.

1.03.070 Court Docket

The court clerk shall publish, no later than twenty-four hours prior to the day on which the court is in session, a schedule of the cases to be heard by the court. This schedule shall include the case name, case number, and scheduled time of hearing. The court clerk shall not publish the case name for child welfare, juvenile, or other closed hearings, but use just the case number.

1.03.080 Documents Filed with the Clerk

Every complaint, summons, warrant, motion, written argument, agreement, pleading, and order shall be in writing and a copy filed with the court clerk unless the court waives the writing requirement. Oral motions (requests to the court) may be made in open court with all parties or their representatives present. The clerk shall give a copy of every document filed in a court case to the peacekeepers, judge or justice who have responsibility for the case.

1.03.090 Documents Given to Other Parties

A party who files any document with the court clerk in a case or criminal prosecution shall give a copy of the same document to every other party in the case. If a party is represented by an attorney or spokesperson, the document shall be given to that representative. Delivery of a copy as required by this section may be made either by giving it to the party in person or by delivery via the United States Postal Service.

1.03.100 Orders Given to Parties

Unless the peacekeepers, judges or justices issue an order or make(s) a decision in open court when all parties are present, decisions and orders of the court shall be written down, and the clerk shall give or send a copy of each such order to each party in the case.

1.03.110 Roster of Spokespersons

A roster of all persons who may act as spokespersons and copies of the signed spokesperson's oaths shall be kept by the court clerk and shall be referred to as the court bar.

1.03.120 Bar Admission Fee

The council may establish a fee for admission to the court bar.

1.03.130 Copies of Laws Available

The laws of the Organized Village of Kake shall be available to the public by request to the court administration and shall be posted or maintained in a public place. Upon request, the court administration shall make copies of such laws and provide these to spokespersons and individuals representing themselves before the court. The court administration may charge a fee to cover the cost of copying.

1.03.140 Recording Hearings

The court shall keep a recording of cases of all panel style hearings, or single judge hearings, all original documents filed with the court, and all orders entered by the court in chronological order. Circle peacemaking may not be recorded, but the Consensus Agreement documenting the outcome of the circle shall be in writing and filed.

1.03.150 Court Finances

A) Accounting: The OVK Council shall establish a separate line-item account for the finances of Keex' Kwaan Court.

B) Fees: The Keex' Kwaan Court may charge fees to use the court. Such fees shall be established or affirmed yearly and posted at the court.

C) Payment of fines or fees: Fines or fees shall be paid in cash, credit card, check, PayPal or other approved electronic method, or money order. Checks or money orders shall be made out to the Keex' Kwaan government and given to the court administration who shall issue a receipt.



Chapter 2: Keex' Kwaan Court Procedures	10
Chapter 3: Keex' Kwaan Court of Appeals	30
Chapter 4: Kake Youth Circle Peacemaking	34
Certification of Adoption	45

CHAPTER 2

KEEX' KWAAN TRIBAL COURT PROCEDURES

Section 1. Purpose.....	12
Section 2. Definitions.....	13
Section 3. Rights of Parties	14
Section 4. Confidentiality	15
Section 5. Recording Hearings.....	15
Section 6. Failure to Appear for a Hearing.....	15
Section 7. Recesses During Hearings	15
Section 8. Testimony and Associated Costs.....	16
Section 9. Evidence and Affidavits	16
Section 10. Emergency Hearings.....	16
Section 11. Search Warrants	17
A. Application for Search Warrants	17
B. Issuing a Search Warrant.....	17
Section 12. Juveniles.....	18
A. Application of OVK Tribal Laws to Juveniles	18
B. Parents or Guardians Attending Hearings.....	18
Section 13. OVK Tribal Court Finances.....	18
A. Accounting.....	18
B. Fees	18
C. Payment of Fees or Fines.....	18
Section 14. Beginning a OVK Tribal Court Case.....	19
A. Review Meeting.....	19
B. Setting a hearing date and time.....	19
C. Decision not to take a case	20
Section 15. Notice	20
A. Notice for hearings.....	20
B. Notice when hearings are rescheduled	20
C. Notice for emergency hearings	20
D. Notice for witnesses	21
Section 16. Procedures for Panel of Peacemakers Style Hearing	21
A. Opening a hearing.....	21
B. Hearing process	22

C. Deliberations	23
D. Decision in writing.....	23
Section 17. Procedures for Peacemaking Circles	23
A. Opening a Circle hearing.....	24
B. Circle Process.....	24
C. Concluding the Circle	25
D. Decisions of Circles	25
Section 18. Options for Orders and Sentences.....	25
A. Fines.....	26
B. Community service	26
C. Impounding vehicles.....	27
D. Banishment	27
E. Drug and alcohol treatment and other counseling	27
F. Restitution	28
G. Counseling by Peacemakers and Elders	28
H. Traditional activities.....	28
I. Apologies	28
Section 19. Written Orders, Consensus Agreements and Timeframe for Complying	28
A. Written Orders	28
B. Consensus Agreements.....	28
C. Timeframe for Complying with Orders and Consensus Agreements	28
Section 20. Request to Change Order.....	29
Section 21. Proof of Compliance with Orders	29
Section 22. Contempt of Court.....	30
A. Reasons persons may be found in Contempt of Court.....	30
B. Peacemakers in Contempt.....	30
C. Confiscating personal property.....	30

Section 1. Purpose

The purpose of the Keex' Kwaan Tribal Court Procedures Ordinance is to provide a fair and equitable process for the operation of the Keex' Kwaan Tribal Court that is consistent with the Keex' Kwaan OVK tribal Constitution and Ordinances, the requirements of the Indian Civil Rights Act and compatible with the unwritten values and practices of the Keex' Kwaan Tribe. The procedures provided in this Ordinance shall be the guidelines and policies of the Keex' Kwaan Tribal Court unless

otherwise specifically provided for by the Keex' Kwaan Constitution or OVK tribal ordinance.

Section 2. Definitions

The following words and phrases, whenever used in this Ordinance, shall have the following meanings:

Banishment means sending a person out of the Village of Kake and off the Island for a period of time or permanently.

Clerk means the primary Clerk of the Keex' Kwaan Tribal Court or specifically designated alternate.

Emergency circumstances mean circumstances in which it reasonably appears that there is imminent danger of harm to a person or property.

Parties means Petitioner(s) and Respondent(s) and any other persons the Keex' Kwaan Tribal Court considers to be parties in a particular case. Petitioners may choose not to be a party to a case if it is specifically permitted by OVK tribal ordinance or if the Keex' Kwaan Court permits it.

Petitioner is the party filing a Petition to Use the Tribal Court.

Proof of Service means written or otherwise documented evidence that parties have been notified of an action of the court, such as notification about a hearing.

Respondent means the person involved in an issue brought before the Court by a Petitioner or against whom a Complaint is filed.

Review Meeting means the initial meeting of Peacemakers to decide whether or not to take a case and what format shall be used to handle the case.

Restitution means compensating a person who has been damaged or injured, by paying money or performing services to compensate for damage or injury. Restitution includes apologizing, payment of medical bills or other bills, repair of property, or replacement of property. The Keex' Kwaan OVK tribal Court may also order people to do other appropriate things to provide restitution.

Civil violation means failing to comply with OVK tribal laws and involves conduct inappropriate to an orderly society, but it is not a criminal offense. A person charged with a civil violation is not entitled to a trial by jury or a right to a public defender.

Section 3. Rights of Parties

Parties appearing before the Keex' Kwaan Tribal Court have rights as specified by the Indian Civil Rights Act of 1968, as amended. Parties appearing before the Court shall have the following rights, which include and exceed those of the Indian Civil Rights Act:

- Parties shall have the right to be notified of court hearings, except in cases of emergency circumstances when a party is not reasonably available to be notified
- Right to copies of documents submitted to the court and court generated documents
- Opportunity to be heard
- Opportunity to present witnesses and evidence
- Opportunity to question any witnesses

- Right to a fair hearing
- Right to request a Change of Order if new evidence or circumstances change in the case
- Right to appeal the final decision to the Keex' Kwaan Appellate Court

Section 4. Confidentially

All children's cases and hearings shall be confidential. Hearings involving adults may be open to the public if the parties and the Peacemakers agree. Unless a case is appealed to the Keex' Kwaan Appellate Court, only the Court Peacemakers and Clerk shall have access to the Court records without further Order of the Court. The Keex' Kwaan Appellate Court shall have access to all records involving cases that are appealed to it.

Section 5. Recording hearings

The Court shall keep a record of all cases consisting of a tape recording or written notes of all panel style hearings, all original documents filed with the Court, and all Orders entered by the Court. Circle Peacemaking may not be recorded, but the Consensus Agreement documenting the outcome of the Circle shall be in writing.

Section 6. Failure to Appear for a Hearing

If parties have been given reasonable notice of a hearing but fail to appear for the hearing, the Court may proceed with the hearing as scheduled and make a decision in the absence of the party, or reschedule it.

Section 7. Recesses During Hearings

The Court may recess during any type of court hearing.

Section 8. Testimony and Associated Costs

Witnesses may testify in person, or, with the Court's permission, by telephone. The Keex' Kwaan Tribal Court may summon witnesses to testify at the hearings by issuing a Summons to Testify. Any travel or telephone costs associated with the testimony of witnesses summoned by the Court shall be paid by the Keex' Kwaan OVK tribal government. Costs associated with witnesses brought before the Court by Parties shall be paid for by the Parties.

Section 9. Evidence and Affidavits

The Keex' Kwaan Tribal Court shall hear all evidence it finds proper. Hearsay evidence given under oath shall be considered improper evidence. The Keex' Kwaan Tribal Court may Order evidence to be brought before the Court by issuing a subpoena. The Keex' Kwaan Tribal Court may accept sworn Affidavits as evidence in cases if the witness is not available to testify.

Section 10. Emergency Hearings

Emergency hearings shall involve matters where harm or damage to a person or property may likely occur if the Court had to wait. In cases of emergencies, the Court may hold a hearing as soon as reasonable proof of imminent harm is provided to the Court. Notice of emergency hearings shall be given to parties who are reasonably available to receive Notice, but the Court may proceed without Notice if parties are not available to receive it. Orders issued during emergency hearings shall be written and of limited duration of up to 30 days unless otherwise stated in the OVK tribal code, or, shall stand only until a regular hearing with reasonable Notice is held.

Section 11. Search Warrants

The Keex' Kwaan Tribal Court shall comply with the Indian Civil Rights Act in requiring tribal search warrants when necessary to search for evidence under circumstances that would lead a reasonable person to believe that a civil violation was or is being committed. Suspicion unsupported by any facts is not sufficient. Search warrants shall specifically state where the search may be done, what items are to be looked for, when the warrant expires, and whether or not the search may take place at night.

- A. Application for Search Warrants:** In order to do searches of people, houses, cars, or other private property, the person or persons designated by the OVK tribal Council to conduct searches, shall fill out an Application for Search Warrant. The application shall state why he or she believes a search warrant is needed. The application shall state the name of the person who saw or has knowledge of an illegal activity or item if it is the basis for reason to believe that a search is needed. The person applying for the search warrant shall swear that the statements in the application are true to the best of their knowledge.

- B. Issuing a Search Warrant:** The approval of at least two Keex' Kwaan Tribal Court Peacemakers shall be necessary to issue a search warrant. Any two of the Peacemakers may issue a warrant. The Peacemakers must be convinced that the person applying for the Search Warrant has "probable cause," meaning evidence of circumstances that would lead a reasonable person to believe that an offense was or is being committed.

Section 12. Juveniles

- A. Application of tribal laws to juveniles:** The civil laws of the Tribe and tribal court procedures generally apply to juveniles the same as they do to adults, provided that specific age related ordinances may apply solely to juveniles and that a Keex' Kwaan Circle Peacemaking Youth Court may be established and operated under its own written procedures.

- B. Parents or guardians attending hearings:** In cases involving civil violations by minor children, written notification shall be given to the child of an upcoming hearing and written notification also given to parents or guardians. The Keex' Kwaan Tribal Court may request a parent or guardian to be present at their child's hearing, or, the Court may request parents or guardians to leave a hearing if the Peacemakers believe that it is in the best interest of the child. The Court may appoint a spokesperson for a minor child.

Section 13. Tribal Court Finances

- A. Accounting:** The OVK Council shall establish a separate line item account for the finances of Keex' Kwaan Tribal Court.

- B. Fees:** The Keex' Kwaan Tribal Court may charge fees to use the Court. Such fees shall be equal for equal types of cases and matters, and shall be made known to any person who wants to use, or files a Petition with, the Keex' Kwaan Tribal Court.

- C. Payment of fines or fees:** Fines or fees shall be paid in cash, check, or money order. Checks or money orders shall be made out to the Keex'

Kwaan Tribal Government, and given to the Court Clerk who shall issue a receipt.

Section 14. Beginning a Tribal Court Case

Cases generally begin by filing a Petition to Use the Tribal Court with the Keex' Kwaan Tribal Court Clerk. The Petitioner shall write sufficient information about the circumstances and reasons why the Court should take the case. Cases may also come to the court through referrals or transfer of jurisdiction from another court. Upon receipt of a Petition, referral, or option to transfer a case, the Clerk shall schedule a Review Meeting with the tribal court Peacemakers to decide whether to take the case or not, and whether to refer a case involving juvenile delinquency to the tribal youth court. A minimum of two Peacemakers at the meeting is necessary to make this decision.

- A. Review Meeting:** Review Meetings shall be held to determine whether a panel style hearing or Peacemaking circle shall be convened. If a circle style is chosen the Peacemakers shall decide which Peacemaker shall serve as the Circle Keeper and who the circle participants shall be. The Clerk shall notify participants according to Section 15. If a panel style is chosen, the Peacemakers shall identify which Peacemakers may have a conflict of interest with the case, and determine which Peacemakers shall hear the case. Peacemakers that will be hearing the case shall decide who the presiding Peacemaker shall be and shall review the case file.

- B. Setting hearing date and time:** For initial hearings on a case, the Clerk shall set a hearing date and time, and give the Petition and attachments along with Notice to all Parties and any other persons the Court requests in the Courtroom for that case. The hearing shall be held no more than 30 days

after a Respondent receives Notice, unless the Court decides there is good reason to have a hearing at a later time.

- C. **Decision to not take a case:** If the decision is made to not take the case, the Clerk shall write a letter of denial to the Petitioner, or referring entity, as soon as possible after the decision is made.

Section 15. Notice

- A. **Notice for hearings:** Parties shall be given reasonable notice for all scheduled Keex' Kwaan Tribal Court hearings. The Clerk, or designee, shall personally serve or mail Notice, along with the Petition to all parties before hearings. In the case of emergency hearings notice shall be given only to those parties reasonably available to receive it. The Notice shall be delivered at least 10 days or mailed at least 14 days before a hearing except as otherwise provided for in the Keex' Kwaan OVK tribal Code. A proof of service shall be filed or noted in the Court file.
- B. **Notice when hearings are rescheduled:** If the Court changes the time of a hearing for any reason, the involved parties shall be given reasonable Notice of the rescheduled hearing. If a hearing is rescheduled, notification may be made telephonically and noted in the case file.
- C. **Notice for emergency hearings:** Notice of emergency hearings shall be given to parties who are reasonably available to receive Notice. If parties are not reasonably available to receive Notice, the Court may hold a hearing without Notice being given.

- D. Notice for witnesses:** Each party shall be responsible for serving Notice to their own witnesses, and giving the Keex' Kwaan Tribal Court Clerk reasonable notice that they have asked witnesses to attend a hearing. The Clerk shall notify the other Parties of witnesses who have been asked to attend.

Section 16. Procedures for Panel of Peacemakers Style Hearings

A. Opening a hearing: The presiding Peacemaker shall open the court hearing and may ask that a prayer or words from an Elder be given. The Presiding Peacemaker shall then:

- Ask the Clerk to begin the recording
- State the case number and the date, time, and place of the hearing
- Ask all persons in the courtroom or at any teleconference sites to state their name and relationship to the case for the record
- Ask how parties were notified of the hearing
- Determine if there are any parties who were notified but are not at the hearing. If a party was notified but is not at the hearing, the Court may either proceed with the hearing or reschedule.
- Determine if there are any parties who should have been notified but were not notified. If it is determined that there is a party that was not notified, the hearing shall be rescheduled to allow reasonable notification.
- State the rights of all parties including the:
 - Right to be notified of court hearings
 - Right to copies of documents submitted to the court and court generated documents
 - Opportunity to be heard
 - Opportunity to present witnesses and evidence
 - Opportunity to question any witnesses

- Right to a fair hearing
- Right to request a Change of Order if new evidence or circumstances change in the case
- Right to appeal the final decision to the Keex' Kwaan Appellate Court
- Ask all parties to sign or swear an oath of truthfulness
- In cases that are closed to the public, all present at the hearing shall be instructed to maintain confidentiality outside the Keex' Kwaan courtroom proceedings.
- The Presiding Peacemaker shall then read the Petition to the Court
- **Civil violations:** In cases of civil violations, the Respondent shall be asked how he or she pleads: guilty, not guilty, or no contest and the Presiding Peacemaker shall make sure the Respondent understands the pleas. The Respondent shall say what his or her plea is. If the Respondent pleads guilty or no contest, the Peacemakers may question the Respondent and any participants in the courtroom to gain information that will help them create an appropriate sentence during their deliberations. They may also counsel the Respondent at that time. If the Respondent pleads not guilty, the hearing shall be held at this time unless the Court finds it appropriate to delay in order for parties to gather witnesses and evidence. If the Respondent is present but will not say anything, the Court shall enter a plea of not guilty.

B. Hearing process: The Presiding Peacemaker shall generally maintain order in the courtroom and direct the order of speaking. Generally the Presiding Peacemaker will first ask to hear from the Petitioner and then from the Respondent. If anyone is connected to the hearing by teleconference, all hearing participants shall state their name prior to speaking, and any visual evidence presented to the court shall be described. Petitioners and Respondents may present

witness and evidence in the order chosen by the Presiding Peacemaker. Each party shall be permitted to question each other and all witnesses. Peacemakers may question anyone in the Courtroom. When the Peacemakers determine that all parties have had sufficient opportunity to speak and present everything they feel is relevant to the case, they shall ask everyone to leave the courtroom while they deliberate.

C. Deliberations: Peacemakers shall take all evidence presented into consideration during their deliberations and make their decision by consensus if possible. If consensus is not possible, the decision shall be made by majority vote. In cases of civil violations where a party entered a plea of not guilty, the Peacemakers shall decide if the information provided is sufficient to lead them to reasonably believe that the person is guilty. If so, then decide on an appropriate sentence from Section 18 of this ordinance.

D. Decision in writing All decisions made by the Keex' Kwaan Tribal Court shall be written on Order forms or Consensus Agreements unless otherwise specified by ordinance.

Section 17. Procedures for Peacemaking Circles

Once the Keex' Kwaan Tribal Court Peacemakers have decided that they want to use a Peacemaking Circle format for a particular case, the designated OVK staff person shall decide who the Circle Keeper and participants will be. Tribal Court Clerk shall notify the parties and circle participants about the date, time, and place of Circle hearing. The notice to the parties shall include a copy of the Petition.

A. Opening a Circle hearing:

- The Keeper may choose to open the Circle by beginning with a prayer or special comments from an Elder or someone in the Circle.
- The Keeper shall ask the participants to agree to keep what is said in the Circle confidential, to be respectful of one another, to be truthful, and to work together towards a consensus
- The Keeper shall state what the situation is that the Circle will be hearing.

B. Circle Process:

- The Keeper shall begin the Circle by passing the talking stick or other special object around the Circle clockwise and shall be responsible for keeping order in the Circle should that become necessary.
- Only the person holding the talking stick may speak.
- If a person chooses not to speak they may pass the stick to the next person.
- The discussion of the Circle shall continue in this manner unless the Keeper directs otherwise.
- The Keeper shall summarize the highlights of what has been said after each round of discussion.
- **Part One:** The stick shall be passed as many times around the Circle as needed for participants to voice their feelings, opinions, share information, and generally talk about the situation.
- **Part Two:** The Keeper shall begin the next rounds of discussion that shall focus on appropriate solutions and sentencing. Again, the

stick shall be passed around as many times as necessary to come to a consensus on what the Order of the Court shall be.

C. Concluding the Circle:

- The Keeper shall state the final consensus of the Circle, and make sure that it is an accurate summary of the Circle's decision
- Before the Circle adjourns, it shall set a date to reconvene the Circle to examine the progress of a case if appropriate, or shall make a specific plan for how follow-up will be monitored.
- The Keeper may choose to end with a prayer or special comments from an Elder or someone in the Circle.

D. Decisions of Circles: Decisions of Peacemaking Circles shall be by consensus of the Circle and shall be written as Orders of the Keex' Kwaan Tribal Court. If a Circle fails to come to consensus on a case, the case shall be referred back to a hearing panel of Keex' Kwaan Tribal Court Peacemakers.

Section 18. Options for Orders and Sentences

The Court may issue Orders concerning child custody arrangements, domestic relations issues, and any other type of case where an Order is appropriate. Unless the Keex' Kwaan OVK tribal Code sets a specific penalty for a particular civil violation, the Keex' Kwaan Tribal Court Peacemakers, either by themselves or through a Peacemaking Circle, shall determine the specific Orders for a particular case. The Peacemakers shall seek a holistic plan for the wrongdoer and shall consider the rights and wellness of any victims:

- A. Fines:** Fines for violation of an OVK tribal ordinance shall not exceed \$5,000 or equivalent work sentence. Fines may increase for successive violations of the same ordinance. The Court may garnish wages, permanent fund or dividend checks, village or regional Native corporation dividends, general assistance, or confiscate property in the case of unpaid fines.
- B. Community Service:** Work sentences may include cutting wood or hauling water for people in need of assistance in the village, for the church, or for the community hall. Sentences may include working in the school, building maintenance or repair, hauling and pumping fuel, and cleaning up trash in the Village of Keex' Kwaan. The Tribal Court Peacemakers may order other types of community work as well. Community service sentences shall benefit the needy, the village residents as a whole, the Elders, the victim of an offense, the church, or the youth. Tribal Court Peacemakers shall not order work sentences that only benefit themselves personally or other OVK tribal government officials. Work sentences shall not displace persons employed in the Village or employment opportunities. Work sentences shall be completed within 30 days unless otherwise directed by the Court.

Community work shall contribute \$10.00 per hour towards fines ordered by the Keex' Kwaan Tribal Court. Persons have the option of work sentences instead of paying a fine only if the Court specifically permits it.

- C. Impounding vehicles:** Any vehicle that is used in driving while intoxicated, or reckless driving under the Keex' Kwaan OVK tribal Code, is subject to impound. To get a vehicle out of impound, the

owner shall pay \$75 for the first time the vehicle is impounded, \$150 for the second time, and \$250 for the third time. The fees may be paid by community work service hours if the Court permits. Except in cases of vehicle theft, the owner is responsible for the impound fee even if the owner was not involved with the civil violation. The Keex' Kwaan OVK tribal Government is not liable for any damages to vehicles while they are impounded.

- D. **Banishment:** An Order of temporary or permanent banishment shall only be used to protect the Village and/or Village residents from harm. The length of time a person is banished shall be determined by the severity of the case or upon the completion of treatment that is ordered.

- E. **Drug and Alcohol Treatment and Other Counseling:** The Tribal Court may order an assessment for drug and alcohol treatment and may require that the recommendations of the assessment be met. The Tribal Court may also order other personal counseling or participation in talking circles. The Tribal Court shall consider the cost to the person and possible waiting periods for getting into treatment, when they order such treatment. The Tribe may pay such costs if funding is available.

- F. **Restitution:** The Tribal Court may order a Respondent to make restitution to his or her victims. Restitution is defined to include payment of money, repairing property, and apologies. Restitution payment shall go through the Keex' Kwaan Tribal Court Clerk. Non-monetary restitution shall be supervised by a person as designated by the Keex' Kwaan Tribal Court.

- G. Counseling by Peacemakers and Elders:** The Peacemakers of the Keex' Kwaan Tribal Court may counsel persons brought before them in a helpful spirit. The Keex' Kwaan Tribal Court may bring Keex' Kwaan Elders into the Keex' Kwaan Courtroom to counsel people.
- H. Traditional Activities:** The Keex' Kwaan Tribal Court may order a person found in violation of an ordinance to participate in seasonally appropriate traditional activities such as fish camps, trapping, hunting, culture camps, and other tribally sponsored or approved traditional activities.
- I. Apologies:** The Circle may order wrongdoers to make apologies to victims and/or to the whole Village at OVK meetings or gatherings. The Circle may specify if the apologies shall be in writing or oral or both.

Section 19. Written Orders, Consensus Agreements, Timeframe for Complying

- A. Written Orders:** All Orders made by the Keex' Kwaan Tribal Court shall be written on Order forms unless otherwise specified by ordinance. All written Orders and notations shall be filed in the case records. The Clerk or other designated person shall personally give or mail a copy of the Order to all parties to the case and file a proof of service.
- B. Consensus Agreements:** All Consensus Agreements made by Circle Peacemaking shall be made in writing and the terms of compliance shall be specified.
- C. Time frame for Complying with Orders and Consensus Agreements:** For cases involving civil violations all sentences shall

be accomplished within 30 days after the Respondent has been notified of the Order, unless the Court provides otherwise. For other cases, the Order shall specify timeframes for compliance.

Section 20. Request to Change Order

Parties may request the Court for a hearing to consider changing an Order. To make such a request, a Party shall file a Request to Change Order form with the Keex' Kwaan Tribal Court Clerk. The request shall state the reason the person believes a change should be made. The requesting person shall present new evidence or information to the Court to support the request. Upon receipt of a Request to Change Order, the Clerk shall schedule a meeting with the tribal court Peacemakers to decide whether to hear the Request or not. A minimum of two Peacemakers is necessary to make this decision. The Court may deny the request, or set a hearing date to consider it and notify all Parties.

Section 21. Proof of Compliance with Orders

Records of proof of compliance with Orders of the Tribal Court shall be kept by the Tribal Court Clerk in the Court files. Parties shall have 30 days to complete the requirements of an Order unless otherwise specified in the Order. Proof that the action has been completed taken shall be given to the Court Clerk within 14 days of completion of the act unless otherwise specified by Court Order. The Clerk shall certify the proof of compliance form. Payment of a fine to the Tribal Court Clerk and a recording of the payment shall be proof in itself of payment. Financial restitution ordered to another party shall be made through the Clerk of the Tribal Court. The Clerk shall report any failures to comply with Tribal Court Orders to the Court. Failure to comply with an Order of the Court in civil violation cases shall be considered contempt of court as described in Section 22 of this Ordinance.

Section 22. Contempt of Court

A. Reasons Persons may be found in Contempt of Court: A person may be found in contempt of court if he or she:

1. Violates the Oath of Confidentiality, Fairness, and Impartiality;
2. Fails to fully comply with an Order or Consensus Agreement of the Keex' Kwaan Tribal Court;
3. Lies to the Court; and/or
4. Disrupts Court proceedings.

B. Peacemakers in Contempt: If a Peacemaker is the subject of a contempt of court violation, that Peacemaker shall not participate a decision concerning the matter. The remaining Peacemakers shall determine how to handle the matter based on the facts of the situation, and may remove the Peacemaker from a particular case or from the Peacemaking Court entirely under the terms of Chapter 1, Section 12 of this Code.

C. Confiscating Personal Property: The Tribal Court may seize a person's personal property if that person is found in contempt of court by the Keex' Kwaan Tribal Court, for not doing what the Keex' Kwaan Court has ordered. The property shall remain confiscated and under the care of the Tribal Council until the person complies with the Court Order to the satisfaction of the Keex' Kwaan Tribal Court. If the person does not comply with the Court Order within the time limits set by the Keex' Kwaan Tribal Court, Keex' Kwaan Tribal Court may sell the confiscated property after providing at least 30 days notice of the proposed sale to the person.

CHAPTER 3

KEEX' KWAAN COURT OF APPEALS

Section 1. Purpose of the Keex' Kwaan Court of Appeals	31
Section 2. Structure of the Keex' Kwaan Court of Appeals	31
Section 3. Clerk of the Keex' Kwaan Court of Appeals	32
Section 4. Beginning an Appeal	32
Section 5. Petition for Appeal	32
Section 6. Appellate Court Procedure and Decisions	32
A. Beginning a Case	32
B. Setting a Hearing Date	33
C. Decisions of the Appellate Court	33
a. Options for Decisions of the Appellate Court	33

Section 1. Purpose of the Keex' Kwaan Court of Appeals

The Keex' Kwaan Court of Appeals is established to assure a fair judicial process in the Keex' Kwaan OVK tribal government system. The purpose of the Keex' Kwaan Court of Appeals is not to re-hear cases, but to review cases that are appealed for possible inconsistent application of OVK tribal law and/or violations of due process. The Keex' Kwaan Court of Appeals has discretion whether or not to take a case that is appealed. The Keex' Kwaan Court of Appeals shall take a case after reviewing records on the case from the Keex' Kwaan Tribal Court, reviewing the Appeal, and making a preliminary determination that there is sufficient evidence that there may have been an inconsistent application of OVK tribal law or a violation of due process.

Section 2. Structure of the Keex' Kwaan Court of Appeals

The OVK Council members who did not serve on the case being appealed shall appoint a panel of three Peacemakers who also did not serve on the case being

appealed. The provisions for conflict of interest found in Chapter 1, Section 7 also apply to Appellate Peacemakers. Appellate Peacemakers shall take the oath of confidentiality, fairness, and impartiality found in Chapter 1, Section 13 of this Code. The three Peacemakers shall decide among themselves who the Presiding Peacemaker shall be.

Section 3. Clerk of the Keex' Kwaan Court of Appeals

The Clerk of the Keex' Kwaan Court of Appeals shall be the same person as the Keex' Kwaan Tribal Court Clerk, unless the Keex' Kwaan OVK tribal Council specifically designates another person.

Section 4. Beginning an Appeal

A person who wishes to appeal a case may file a Petition for Appeal with the Clerk of the Keex' Kwaan Court of Appeals within 30 days after receiving an Order from the Tribal Court. Appeals filed after 30 days from the receipt of an Order shall not be considered. A person who is appealing a case shall be called the "Appellant."

Section 5. Petition for Appeal

The Petition for Appeal shall state the name and address of the person who is appealing the case, the name of the case, and case number. A copy of any written Order the Appellant is appealing shall be attached to the Petition for Appeal. The Petition for Appeal shall contain a statement of why the Appellant believes that the case should come before the Keex' Kwaan Court of Appeals.

Section 6. Appellate Court Procedure and Decisions

- A. Beginning a Case:** The Clerk shall notify the Keex' Kwaan OVK tribal Council that an Appeal has been filed. The Clerk shall make

copies of the Tribal Court record of the case and the Petition for Appeal for the Court of Appeals. The Clerk shall set a date for the Court of Appeals to review these materials, and to determine if there is sufficient evidence that tribal law may have been inconsistently applied and/or if there may have been a violation of fundamental fairness. If the Keex' Kwaan Court of Appeals decides that there is not sufficient evidence, the decision of the Keex' Kwaan Tribal Court stands, and no hearing is scheduled. If no hearing is held the Keex' Kwaan Court of Appeals shall issue an order to the Appellant stating that.

- B. Setting a Hearing Date:** Once the Keex' Kwaan Court of Appeals has completed a review of the case records and decided that it will hear a case, the Clerk shall set a hearing date and shall give all parties to the case Notice of the hearing. The Notice shall be personally delivered at least 10 days or mailed at least 14 days prior to a hearing, and proof of service filed or noted in the case records. At the hearing, all parties may discuss the issues written in the Appeal concerning whether or not the Tribal Court made a mistake in applying tribal law or a mistake concerning fundamental fairness. The parties may only present new evidence in the appeal if the Appellate Court permits it.
- C. Decisions of the Appellate Court:** After the Keex' Kwaan Appellate Court hears a case, the Presiding Peacemaker or Clerk shall fill out a Decision of Appeal that shall be filed in the Appeals Court record given to the Tribal Court. The Clerk shall assure that all parties in a case receive a copy of the Decision of Appeal, and file a proof of service in the case records.

A. Options for Decisions of the Appellate Court: After finishing a hearing or hearings on a case, the Appellate Court shall take one of the following actions:

1. Uphold the procedures and decision of the Keex' Kwaan Tribal Court;
2. Order the Tribal Court to re-hear the case in a way that is consistent with specific instructions written in the Decision of Appeal; or
3. Dismiss the case in the most serious of circumstances.

CHAPTER 4
KAKE YOUTH CIRCLE PEACEMAKING
STRUCTURE AND PROCEDURES

Section 1. Purpose of the Kake Youth Circle Peacemaking.....	36
Section 2. Authority to Establish and Operate the Kake Youth Circle Peacemaking.....	36
Section 3. Jurisdiction of the Kake Youth Circle Peacemaking	36
Section 4. Youth Coordinator and Youth Panel	37
Section 5. Beginning a Case by Petition or Referral	37
A. Beginning Cases by Petitions	37
B. Beginning Cases through Referrals	38
Section 6. Determining Circle Participants and Keeper of the Circle	38
Section 7. Notification of Circle Hearings	38
Section 8. Kake Youth Circle Peacemaking	38
A. Peacemaking Circle.....	38
B. Choosing the Circle Participants and Circle Keeper	38
C. Circle Participants	39
D. Keeper’s Role for Opening and Conducting the Circle.....	39
E. Basic Rules of the Circle	40
F. Order of Speaking.....	40
G. Process of the Circle.....	40
H. Decision of the Circle	40
I. Mentors.....	40
J. Follow-up on Circle Orders.....	41
Section 9. Oath of Confidentiality and Fairness	41
Section 10. Failure to Appear for a Peacemaking Circle	41
Section 11. Creative Sentencing – Options for Consensus Agreements of the Circle	41
A. Community Service Work.....	42
B. Restitution	42
C. Apologies.....	42
D. Essays and Presentations.....	43
E. Organize Events or Fundraisers	43
F. Counseling by Professional counselors, Elders, or Peers	43
G. Substance Abuse Awareness Sessions and Talking Circles	43
H. Traditional Activities	43
Section 12. Proof of Compliance with Consensus Agreements and Failure to Comply	44
Section 13. Appeals.....	44

Section 1. Purpose of the Kake Youth Circle Peacemaking

The Youth are the treasures of our Tribe and hope for the future. The purpose of the Kake Youth Circle Peacemaking is to encourage responsible behavior and choices among our Youth, to empower them to participate in decision-making when problems arise among their peers, and to preserve and promote the cultural values and practices of the Kake Youth Circle Peacemaking Tribe. The Consensus Agreement ordered by the Kake Youth Circle Peacemaking shall be designed to help and heal victims, wrongdoers, and the Village of Kake. This Ordinance outlines the basic structure and procedures of the Kake Youth Circle Peacemaking, and is intended to provide a fair and equitable process that is consistent with the Organized Village of Kake Tribal Constitution, OVK tribal ordinances, the requirements of the Indian Civil Rights Act, and compatible with the unwritten laws and values of the Organized Village of Kake Tribe.

Section 2. Authority to Establish and Operate the Kake Youth Circle Peacemaking

The Organized Village of Kake OVK Council has the authority to establish and operate a tribal court system under its inherent sovereignty as a federally recognized tribe and under Article V of the Organized Village of Kake Tribal Constitution. The Organized Village of Kake Council hereby establishes the Kake Youth Circle Peacemaking, Kake Youth Community Restorative Peacemaking as part of the Organized Village of Kake Tribal Court system.

Section 3. Jurisdiction of the Kake Youth Circle Peacemaking

The Kake Youth Circle Peacemaking shall have limited jurisdiction over health, safety, and welfare matters arising among the village Youth between and including the ages of 8 through 18. Those subjects include use of alcohol and illegal drugs, vandalism, trespass, theft, bullying, harassment, disorderly conduct, tardiness, truancy and juvenile curfew. However, the Kake District Court of Alaska may at any time, initially take, or take over a case when the complexity or seriousness of the situation warrants it.

Section 4. Youth Coordinator and Youth Panel

The OVK Council shall designate a Youth Coordinator and establish a panel of at least two youth to work with and advise the Youth Coordinator. Duties of the Youth Coordinator and Youth Panel may include:

- Receiving petitions or referrals filed with the Kake Youth Circle Peacemaking, Tribal Youth Court
- Answering the phone calls and receiving mail for the Youth Court
- Maintaining files for the Court and a Court calendar
- Helping to select Circle participants when asked to do so
- Notifying parties and Circle participants of Circle hearings
- Drafting Consensus Agreements for the Keeper of the Circle to sign
- Receiving Proof of Compliance with Consensus Agreements
- Maintaining records of Youth Court finances

Section 5. Beginning a Case by Petitioning or Referral

A. Beginning Cases by Petitions: A case may begin by anyone giving a Petition describing an incident, problem, or situation to the Youth Coordinator, or to any one of the Organized Village of Kake Social Services and/or SEARHC (Southeast Alaska Regional Health Consortium Alaska) Counselors. Petition forms shall be made available at the OVK Office. The person filing a Petition shall be called the Petitioner and may be asked to sit in the Circle on the case. Two youth and staff shall meet to review the petition and decide whether or not the Kake Youth Circle Peacemaking should hold a Circle on the case. If so, they shall proceed to select Circle participants under Section 7(B) of this Ordinance. The OVK Youth Coordinator shall schedule a date for the Circle, and notify the parties.

B. Beginning cases through referrals: A case may begin by a referral from a state court judge or law enforcement officer, or by referral from another tribal court. A Review meeting shall be called by the Clerk review the referral and decide whether or not the Kake Youth Circle Peacemaking should hold a Circle on the case. If so, the OVK Tribal Youth Coordinator or designated OVK staff person shall proceed to select Circle participants. The Tribal Youth Coordinator shall schedule a date for the Circle, and notify the parties.

Section 6. Determining Circle Participants and Keeper of the Circle:

Circle participants and the Keeper of the Circle shall be chosen by the Tribal Youth Coordinator or designated OVK staff.

Section 7. Notification of Circle Hearings

The Tribal Youth Coordinator shall notify the parties being accused of a wrongdoing and Circle participants about the date, time, place of Circle hearings. The notice to the parties shall include a copy of the petition or reason they are being brought to the Peacemaking Circle, and shall state that if the parties believe they are being wrongly accused that they may immediately notify the OVK Youth Coordinator who will schedule a hearing before the OVK Council. Notice for Peacemaking Circles shall be given at least three days prior to the Circle date.

Section 8. Kake Youth Circle Peacemaking

- A. Peacemaking Circle:** The Kake Youth Circle Peacemaking Tribal Youth Court shall be conducted through the use of Peacemaking Circles.
- B. Choosing the Circle participants and Circle Keeper:** Circle participants and the Facilitator of the Circle shall be chosen by the OVK Youth Coordinator plus two Youth from the Youth Panel, and shall not be parties

in the case or live in the same household as the wrongdoer coming before the Circle.

C. Circle Participants: In general, participants of Peacemaking Circles shall include resident Youth between and including the ages of 8 and 18, are selected by the Youth Coordinator and two youth. The OVK Youth Coordinator shall be present at Circle hearings in order to write the decision of the Circle on a Consensus Agreement form. Circles may also include adult community members, parents, teachers, counselors, and any other person who those choosing Circle participants decide should be in the Circle.

D. Keeper's Role for Opening and Conducting the Circle:

- The Keeper of the Circle shall begin the Circle process by opening the Circle.
- Opening the Circle may include a prayer or special comments from an Elder or someone in the Circle.
- The Keeper shall ask the participants to agree to the Oath of Confidentiality and Fairness written in Section 8 of this Ordinance.
- One person shall talk at a time with no interruptions
- The Keeper shall outline the rules of the Circle and ask participants if there are any additional rules they would like to see the Circle go by.
- Comments shall be limited to maximum of five minutes, unless permission granted by Facilitator.
- The Keeper shall state what the situation is that the Circle will be hearing.
- The Keeper shall begin the Circle by passing the talking stick or other special object in a clockwise direction.
- The Keeper shall be responsible for keeping order in the Circle should that become necessary.
- The Keeper shall summarize the highlights of what has been said after each round of discussion.
- Participants shall show respect to one another and not point the blame.
- The Keeper shall state the final consensus of the Circle, and make sure that it is an accurate summary of the Circle's decision, and sign the written Consensus Agreement after the Tribal Court Clerk or OVK Youth Coordinator has prepared it.
- All comments made in the Circle shall be confidential.

- E. **Basic Rules of the Circle:** The most basic rule of the Circle is that persons shall have respect for one another. Only one person shall speak at a time, which shall be the person with the talking stick, or as directed by the Keeper of the Circle. What is said in the Circle shall stay in the Circle, and shall not be discussed outside of the Circle.
- F. **Order of Speaking:** Once the Keeper has opened the Circle, he or she shall pass the talking stick around the Circle and participants shall speak only when they hold the stick. If a person chooses not to speak, they may pass the stick on to the next person in the Circle. The discussion of the Circle shall continue in this manner unless the Keeper directs otherwise.
- G. **Process of the Circle:** The first round: quick introductions shall be made, stating name and the person being supported (victim, wrongdoer). The second round of the Circle discussion shall be for participants to voice their feelings (speaking from the heart), opinions, share information, and generally talk about the situation. After these things are thoroughly aired, the Keeper shall begin a new round of discussion focusing on appropriate solutions and sentencing.
- H. **Decision of the Circle:** The decisions of the Circle shall be made by consensus. The discussion in the Circle shall proceed until everyone can stand behind the decisions being made. The decision of the Circle shall be written on a Consensus Agreement form by the OVK Youth Coordinator or Court Clerk and signed by the Keeper of the Circle, by the victim, and the wrongdoer. The decision shall include who shall do specific tasks that may be decided by the Circle, who shall Mentor the wrongdoer, and specify guidelines for the sentences decided.
- I. **Mentors:** Specific adult mentors shall be assigned to oversee the progress of wrongdoers in completing their sentences. Mentors shall sign off on proof of compliance forms when wrongdoers complete tasks assigned in

Consensus Agreements. Mentors shall report to the OVK Youth Coordinator if a wrongdoer fails to complete assignments made in Consensus Agreements within the allowed timeframe.

- J. Follow-up on Circle Consensus Agreements:** Before a Circle adjourns a session, it shall make a specific plan for how follow-up will be monitored, and may set a date to reconvene the Circle to examine the progress of a case if appropriate in 30 days. If a party is not complying with an Consensus Agreement of the Circle, the person may be brought before the Circle again, or the case may be referred to the Kake District Court.

Section 9. Oath of Confidentiality and Fairness

Participants of Circles shall agree to the following oath:

"I promise to not discuss what is said in this Circle outside this Circle. I will work towards a fair agreement about what should be done. "

Section 10. Failure to Appear for a Peacemaking Circle

If a wrongdoer was served with a notice about a Circle hearing but fails to show up at for a Hearing, the Kake Youth Circle Peacemaking Tribal Youth Circle may send a designated adult to get the person if the person is in the Village, or set another Circle date.

Section 11. Creative Sentencing – Options for Consensus Agreements

The Circle participants shall design sentences intended to help and heal victims, offenders, and the Village of Kake. The Circle shall assign specific adult mentors to oversee the completion of sentences. The Circle may choose one or more from the following options:

- A. Community Service Work:** Work sentences shall benefit the needy, the village residents as a whole, the Elders, the victim of an offense, offenders, and/or the youth. Work sentences may include and are not limited to cutting wood, hauling water, shoveling snow, doing laundry, or cleaning homes or yards for needy people or the community hall or church, working in the school, conducting village surveys, helping the local police officer, working with carpenters or other tradesmen in the village, working in the OVK or City Offices, participating in preparations for community events, building maintenance or repair and cleaning up trash in the Village of Kake. Circle participants shall not order work sentences that only benefit themselves personally. Work sentences shall not displace persons employed in the Village or employment opportunities. Work sentences shall be completed within 30 days unless otherwise directed by the Court.
- B. Restitution:** The Circle may order a wrongdoer to make restitution to his or her victims or to the Village. Restitution is defined to include payment of money, repairing property, and apologies. Restitution payment shall go through the OVK Youth Coordinator. Non-monetary restitution shall be supervised by OVK Youth Coordinator or by another person designated by the Circle.
- C. Apologies:** The Circle may order wrongdoers to make apologies to victims, parents or guardians, and/or to the whole Village at OVK meetings or gatherings. The Circle may specify if the apologies shall be in writing or oral or both.
- D. Essays and Presentations:** The Circle may order wrongdoers to write essays and/or to give presentations. The Consensus

Agreement shall specify the topics for such essays and the minimum length. If a presentation is required, the audience such as the OVK Council, school, or Elders shall be specified.

- E. **Organize Events or Fundraisers:** The Circle may order wrongdoers to organize or help organize events for the Youth and village residents organize or fundraisers for restitution or village projects.

- F. **Counseling by Professional Counselors, Peacemakers, and Elders:** The Circle participants may counsel wrongdoers in a helpful spirit. The Circle may order professional counseling, as long as the counseling is available in the village, or counseling by specific Kake Elders. The Circle may also order peer counseling by specific peers, or participation in talking circles.

- G. **Substance Abuse Awareness Sessions and Talking Circles:** The Circle may order participation in substance abuse awareness sessions or talking circles in the Village.

- H. **Traditional Activities:** The Circle may order a person found in violation of an ordinance to participate in seasonally appropriate traditional activities such as fish camps, trapping, hunting, putting up fish or meat, culture camps, preparing Native foods, traditional crafts and Native language activities, and other tribally sponsored or approved traditional activities.

Section 12. Proof of Compliance with Circle Consensus Agreements and Failure to Comply

If a party is ordered to do something, the party shall file a Proof of Compliance form with the OVK Youth Coordinator within 7 days after completion of the Consensus Agreement unless otherwise specified. Mentors shall sign off on Proof of Compliance forms. Mentors shall notify the OVK Youth Coordinator in the event the person they are mentoring does not complete the requirements of a Consensus Agreement. The OVK Youth Coordinator may schedule another Circle or report any failures to comply with Consensus Agreements to the regular Kake Youth Circle Peacemaking, schedule a Contempt of Court hearing, and provide notice to the party of the hearing.

Section 13. Appeals

A panel of three Peacemakers from the Organized Village of Kake Tribal Court shall serve as the Appellate Court for the Kake Youth Circle Peacemaking, Tribal Youth Court. A Youth who wishes to appeal a case may file a Notice of Appeal with the OVK Youth Coordinator or Court Clerk within 10 days after receiving a Consensus Agreement from the Kake Youth Circle Peacemaking, Tribal Youth Court. A Review Meeting shall be held, and the decision made to accept the appeal or not shall be made. If the appeal is accepted, the Review Team shall determine which three Peacemakers shall serve as the Appellate Court for the case. Appeals filed after 10 days shall not be considered.



Organized Village of Kake

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(Federally Recognized Tribal Government serving the Kake, Alaska area)

Resolution No. 2024-13 ~ Amendment of Keex' Kwaan Peacemaking Structure

WHEREAS, The Organized Village of Kake (hereinafter OVK) is a federally recognized Indian Tribe, is the organized pursuant to the authority of the Federal Indian Reorganization Acts (hereinafter IRA) of 1934 & 1936 with IRA Council as the duly elected governing body formed under its Constitution and By-laws to execute agreements and contracts with the United States of benefit its member; and,

WHEREAS, OVK is further defined as an Indian Tribe in the Indian Self-determination and Education Assistance Act, PL 93-638 and as such is entitled to contract with the Federal Government for the operation of any federal programs, services, activities or functions serving its member; and,

WHEREAS, in Feb. 2019 OVK Tribal Council Amended Chapter 1 Circle Peacemaking Structure; and,

WHEREAS, In 2023, it was determined that the amended ordinance was not properly posted and adopted; and,

WHEREAS, the council reviewed the approved draft of the ordinance and provided it to the public for comment, in accordance with the process for adopting, amending, and repealing tribal codes; and,

WHEREAS, No public comment was received, and the Tribal Council proceeded with the adoption of the amended ordinance, Chapter 1; and,

WHEREAS, In February 2024, the OVK Tribal Council amended Chapter 1 of the Circle Peacemaking Structure in accordance with the procedures for adopting, amending, and repealing tribal codes.

THEREFORE BE IT RESOLVED, that the Organized Village of Kake Tribal Council hereby adopts and enacts in its entirety the attached document, known as Chapter 1 KEEEX' KWAAN PEACEMAKING COURT STRUCTURE.

CERTIFICATION

This resolution was duly adopted at an IRA Council meeting held this 18th day of July, 2024 by a quorum of 7 (includes president as non-voting chairperson except in case of tie vote) with 6 yes votes, 0 no votes, and 0 abstaining.


Joel Jackson, President


Attested by