

SISSETON-WAHPETON SIOUX TRIBE

CHAPTER 5

HOUSING CODE

S. I. CODE
 Amendment
 New Adoption
Judicial Approved
02-06-82
Council Adopted
05-04-82

05-01-01 DEFINITIONS AND GENERAL PROVISIONS

The following definitions and general provisions shall apply in the interpretation and enforcement of this article.

05-01-02 Declaration of Policy - The Council declares the purpose of this article is to protect, preserve, and promote the physical and mental health of the people, investigate the control communicable diseases, regulate privately and publicly owned dwellings for the purpose of sanitation and public health, and protect the safety of the people and promote the general welfare by legislation which shall be applicable to all dwellings now in existence or hereafter constructed which:

1. Establishes minimum standards for basic equipment and facilities for light, ventilation and heating, or safety from fire, for the use and location and amount of space for human occupancy, and for safe and sanitary maintenance;
2. Determine the responsibilities of owners, operators, and occupants of dwellings; and
3. Provide for the administration and enforcement thereof.

05-01-03 Legislative Finding - The Council finds that there exists, within the boundaries of the Lake Traverse Reservation, numerous dwellings which are substandard in one or more important features of structure, equipment, sanitation, maintenance or occupancy. Such conditions adversely affect the physical and mental health of the people, the control of communicable diseases, the safety of the people and the general welfare, and therefore require the establishment and enforcement of minimum housing standards.

05-01-04 Title - This article shall be known and may be cited as the Housing Code.

05-01-05 Approved - shall mean constructed, installed, and maintained in accordance with this article, and rules and regulations adopted and promulgated in pursuance thereof.

- 05-01-06 Basement - shall mean that portion of a dwelling between floor and ceiling which is partly below and partly above grade, the floor of which is less than four (4) feet below the average grade of the adjoining ground.
- 05-01-07 Cellar - shall mean that portion of a dwelling between floor and ceiling which is below, or partly below grade, the floor of which is more than four (4) feet below the average grade of the adjoining ground.
- 05-01-08 Dwelling - shall mean any building which is wholly or partly used or intended to be used for living or sleeping by human occupants. Temporary housing as hereinafter defined shall not be regarded as a dwelling.
- 05-01-09 Dwelling Unit - shall mean any room or group of rooms located within a dwelling and forming a single habitable unit with facilities which are used or intended to be used for living, sleeping, cooking, eating, and a part of which is exclusively or occasionally appropriated to cookery.
- 05-01-10 Electrical Convenience Outlet - shall mean a point on the electrical wiring system equipped with one or more receptacles intended to receive attachment plugs from which current is taken to supply utilization equipment.
- 05-01-11 Extermination - shall mean the control and elimination of insects, rodents, vermin or other pests by eliminating their harborage places; by removing or making inaccessible materials that may serve as their food, or poisoning, spraying, fumigating, trapping, or similar means.
- 05-01-12 Garbage - shall mean the animal and vegetable waste resulting from the handling, preparation, cooking, or consumption of foods.
- 05-01-13 Habitable Room - shall mean a room designed to be used for living, sleeping, eating or cooking, excluding bathrooms, toilet compartments, closets, halls, and storage places.
- 05-01-14 Hotel - shall mean any dwelling, or that part of any dwelling, containing one or more rooming units in which space is let to three or more guests who are transients or permanent guests.
- 05-01-15 Infestation - shall mean the presence within or around a dwelling, of insects, rodents, vermin or other pests of such kind, or in such numbers, to cause a hazard to health.
- 05-01-16 Reservation Sanitarian - shall mean the Reservation Sanitarian of Health and Hospitals of the Lake Traverse Reservation.

- 05-01-17 Multiple Dwelling - shall mean any dwelling containing more than two (2) dwelling units.
- 05-01-18 Occupant - shall mean any person living, sleeping, cooking, or eating in, or having actual possession of, a dwelling unit or rooming unit.
- 05-01-19 Operator - shall mean any person, whether the owner or not, who manages or controls any dwelling, or part thereof, in which dwelling units or rooming units are let.
- 05-01-20 Owner - shall mean any person who, alone or jointly, or severally with others:
1. Has record legal title to any dwelling or dwelling units, with or without accompanying actual possession thereof;
 2. Acts as the agent of the person holding the record legal title of any dwelling or dwelling unit;
 3. Is the personal representative or fiduciary of an estate through which the record legal title to the real property in which any dwelling or dwelling unit is administered.
- 05-01-21 Person - shall mean a natural person for purposes of the occupancy standards hereof, and for other purposes shall mean a legal entity.
- 05-01-22 Rooming Unit - shall mean any room or group of rooms forming a single habitable unit used, or intended to be used for living and sleeping, but not part of which is exclusively or occasionally appropriated to cookery.
- 05-01-23 Rooming House - shall mean any dwelling or that part of any dwelling containing one or more rooming units in which space is let to three or more persons who are permanent guests.
- 05-01-24 Rubbish - shall mean combustible and noncombustible waste materials, household and yard debris and ashes.
- 05-01-25 Supplied - shall mean paid for, furnished, provided by, or under the control of the owner or operator.
- 05-01-26 Temporary Housing - shall mean any tent, trailer coach, or other structure, used for human shelter, which is designed to be transportable, and which is not attached to the ground, to another structure, or to any utilities systems.

05-02-01 INSPECTIONS

For the purpose of determining compliance with the provisions of this article, the Reservation Sanitarian or his authorized representative is hereby authorized and directed to make inspections to determine the condition, use, and occupancy of dwellings, dwelling units, rooming units, and the premises upon which the same are located. For the purpose of making such inspections, the Reservation Sanitarian or his authorized representative is hereby authorized to request entry to examine, inspect and survey all dwellings, dwelling units, rooming units, and premises upon which the same are located, at all reasonable times.

05-02-02

In the event that the owner, occupant, or operator in charge of a dwelling, dwelling units, rooming unit, and premises upon which the same are located, subject to the provisions of this ordinance and the rules and regulations adopted and promulgated in connection herewith, refuses or restricts entry and free access to every part of the structure or premises wherein, refuses or restricts entry and free access to every part of the structure or premises wherein inspection is sought, the Reservation Sanitarian or his authorized representative shall seek from the Sisseton-Wahpeton Sioux Tribal Court, a warrant for inspection and order that such owner, occupant, or operator be required to permit an inspection at a reasonable time without interference, restriction, or obstruction. The Sisseton-Wahpeton Sioux Tribal Court shall have jurisdiction and authority to issue warrants for inspection and order the owner, occupant, operator to allow entry and free access into all buildings, dwellings, dwelling units, rooming units, and premises upon which the same are located. The said Tribal Court shall have full power, jurisdiction and authority to enforce all orders issued under the provisions of this ordinance.

05-02-03

It shall be unlawful for any person to violate the provisions of any warrant for inspection and order issued under the provisions of this ordinance.

05-02-04

It shall be unlawful for any person, owner, operator, or occupant to refuse to allow or permit the Reservation Sanitarian or his authorized representative free access to any building, dwelling, dwelling unit, rooming unit, and premises upon which the same are located when the Reservation Sanitarian or his authorized representative is acting in compliance with a warrant for inspection and order issued by the Sisseton-Wahpeton Sioux Tribe Court; and where the Reservation Sanitarian or his authorized representative is conducting an inspection, examination or survey in accordance with the provisions of this ordinance, or any rules or regulations adopted and promulgated in accordance with the provisions of this article.

05-03-01 ENFORCEMENT OF HOUSING CODE

05-03-02 Notice of Violations

Except in those instances to which Section 05-04-01 hereof is applicable, whenever the Reservation Sanitarian or his authorized representative determines that there has been a violation of any provision of this article or any rule or regulations adopted pursuant thereto, he shall give notice of such alleged violation to the person or persons designated in 4 below. Such notice shall:

1. Be in writing;
2. Particularize the violations alleged to exist or to have been committed;
3. Provide a reasonable time, but not less than thirty (30) days in any event, for the correction of the violations particularized; and
4. Be addressed to and served upon the owner of the property, the operator of the dwelling unit, and the occupant of the dwelling unit or rooming unit concerned, if the occupant is or may be responsible for the violation.

Service shall be as provided for personal service by the rules of civil procedure for courts in the Lake Traverse Reservation or by registered or certified mail, return receipt requested, delivered to addressee only. If service is made by registered or certified mail, the Reservation Sanitarian or his authorized representative shall include, in the record, a statement giving details regarding the mailing. If one or more persons to whom notice is addressed cannot be found or served after diligent effort to do so, service may be made upon such person or persons by posting a notice in a conspicuous place in or about the dwelling affected by the notice, in which event the Reservation Sanitarian or his authorized representative shall include, in the record, a statement as to why such posting was necessary.

05-03-03 Appeal to the Board of Health and Hospitals

Any person affected by a notice issued hereunder, who is aggrieved thereby, and who believes the same to be factually or legally contrary to the ordinances of the Lake Traverse Reservation or the policies and regulations of the Department of Health and Hospitals, within the time provided in Section 05-06-01, and in the manner provided by Charter and By-laws and rules of procedures of said Board may appeal.

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Amendment
New Adoption
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05-03-04 Variance of Appeal

The Board of Health and Hospitals may authorized, upon appeal in specific cases, such variance from the terms of the Housing Code or the rules and regulations adopted pursuant thereto, subject to terms and conditions fixed by the Board, as will not adversely affect the public health where, owing to exceptional and extraordinary circumstances, literal enforcement of applicable provisions will result in unnecessary hardship. The burden is upon the applicant to show, by clear and convincing evidence that:

1. The variance shall not substantially or permanently injure the appropriate use of the other portions of the dwelling involved, or other property;
2. The variance shall be in harmony with the spirit and purpose of the Housing Code;
3. The variance shall protect, preserve, and promote the physical and mental health of the people of the Lake Traverse Reservation in the same manner and to the same effect as would literal enforcement of the provisions applicable to each particular case.

05-03-05 Hearing Commissioner

The Board of Health and Hospitals may delegate to the Hearing Commissioner the hearing of all matters, appeals, and cases which the Board can hear under the provisions of this ordinance. Said Hearing Commissioner shall hear all testimony and prepare a written statement of his findings and recommendations to the Board of Health and Hospitals. The Board shall review all matters contained in the record and considered by the Hearing Commissioner, as set forth in his written findings and thereupon make a final decision and determination. The Board may or may not follow the written findings and recommendations of the Hearing Commissioner. The Department of Health and Hospitals shall, within the limits of the appropriations therefore, employ a Hearing Commissioner, recorder, and such other employees as shall be necessary to carry out the terms and functions of this ordinance. The Hearing Commissioner shall be appointed by the Reservation Sanitarian, with the approval of the Board of Health and Hospitals, and shall serve at their pleasure.

05-03-06 Time to Appeal

Every appeal must be perfected within sixty (60) days from the date of the decision appealed from or from the time of service of any notice of alleged violation, as the case may be. The Chairman of the Board may extend the time within which an appeal may be taken where good and sufficient grounds for extension of time are shown. Any person aggrieved by any decision of the Reservation Sanitarian or his authorized representative who wishes an extension of

time may request it from the Reservation Sanitarian and upon a showing of good and sufficient grounds the Reservation Sanitarian may extend the time to appeal to the Board.

05-03-07 Effect of Failure to Appeal

If no appeal is taken, the notice shall become a final order when the time for appeal to the Board of Health and Hospitals has elapsed.

05-03-08 Judicial Review

Any person aggrieved by a final decision of the Board of Health and Hospitals may seek relief therefrom in a Court of competent jurisdiction within sixty (60) days thereof.

05-04-01 ADOPTION OF RULES AND REGULATIONS

The Board of Health and Hospitals is hereby authorized to adopt and the Reservation Sanitarian shall promulgate, rules and regulations deemed necessary for the proper and effective enforcement of the provisions of this article. Such rules and regulations shall be consistent with provisions of the article and the standards established herein.

05-05-01 MINIMUM STANDARDS FOR BASIC EQUIPMENT AND FACILITIES

No person shall occupy or let to another for occupancy, any dwelling unit which does not comply with the following requirements:

1. Every dwelling unit shall contain a kitchen sink in good working condition and properly connected to an approved water and sewer system.
2. Every dwelling unit shall contain a room which affords privacy to a person within said room and which is equipped with a flush water closet in good working condition and properly connected to an approved water and sewer system.
3. Every dwelling unit shall contain within its walls a lavatory basin in good working condition and properly connected to an approved water and sewer system and located in the same room as the required flush water closet or as near to that room as practicable.
4. Every dwelling unit shall contain, within a room which affords privacy to a person within said room, a bathtub or shower in good working condition and properly connected to an approved water and sewer system.

5. Every kitchen sink, lavatory basin, and bathtub or shower required under the provisions of Section 05-05-01, subsections 1, 3, and 4, shall be connected to both hot and cold water lines in an approved manner.
6. Every dwelling unit shall be supplied with rubbish storage facilities whose type and location are approved.
7. Every dwelling unit shall have adequate garbage disposal facilities or garbage storage containers whose type and location are approved.
8. Every dwelling unit shall have supplied water-heating facilities which are installed in an approved manner, are maintained and operated in good and safe working condition, are properly connected with the hot water lines as required under the provisions of Section 05-05-01, subsection 3, and are capable of heating water to such temperature as to permit an adequate amount of water to be drawn at every kitchen sink, lavatory basin, bathtub, or shower at a temperature of not less than 120 degrees fahrenheit. Such supplied water-heating facilities shall be capable of meeting the requirements of this Section when the unit heating facilities required under the provisions of Section 05-06-01, subsection 4, are not in operation.
9. Every dwelling unit shall have approved, safe, unobstructed means of egress leading to safe and open space at ground level.

05-06-01 MINIMUM STANDARDS OF LIGHT, VENTILATION AND HEATING

No person shall occupy or let to another for occupancy any dwelling or dwelling unit, for the purpose of living therein, which does not comply with the following requirements:

1. Every habitable room in a dwelling or dwelling unit, shall have at least one window or sky-lighting facility facing directly to the outside, and shall have a minimum of five foot-candles of daylight illumination, measurable at the epicenter of the room, 30 inches above floor level, with a standard light meter facing the light source at noon, with the sky of normal brightness. The Reservation Sanitarian may approve an indirect means of supply five foot-candles of natural daylight illumination to habitable rooms without direct openings to the exterior, provided that ventilation as required by Section 05-06-01, subsection 2. is supplied.

2. At least one window or sky-light required by Section 05-06-01, subsection 1., shall be easily openable unless there is some other comparable method of ventilating the room.
3. Every bathroom and water closet compartment shall have at least one window or sky-light facing directly to the outside in order to provide adequate ventilation. The Reservation Sanitarian may approve some other acceptable method of ventilation.
4. Every dwelling and dwelling unit shall have heating facilities which are installed in an approved manner and are maintained in safe and good working condition, and are capable of safely and adequately heating all habitable rooms, bathrooms, and water closet compartments located therein to a temperature of at least 70 degrees fahrenheit at a distance of three (3) feet above floor level, when the temperature outside is minus 5 degree fahrenheit. Such heating equipment shall be operated as reasonably as necessary to maintain a temperature in all habitable rooms of 70 degrees fahrenheit.
5. Every public hall or stairway in or leading into every multiple dwelling shall have a minimum of 1 foot-candle of illumination measurable with a standard light meter at floor level in halls and tread levels on stairways, at all times when the structure is occupied.
6. Every dwelling shall be supplied with electricity and shall meet the following requirements:
 - a. Every habitable room shall contain one electrical convenience outlet for each 20 lineal feet, or major fraction thereof, measured horizontally around the room at the baseboard line, except that in each habitable room one supplied electrical light fixture shall be accepted in lieu of one of the required electrical convenience outlets, provided that each habitable room contains at least one electrical convenience outlet;
 - b. Every water closet compartment, bathroom, laundry room, furnace room, and public hall shall contain at least one ceiling or wall-type electric light and fixture; and
 - c. Every outlet and fixture shall be installed in an approved manner and maintained in good and safe working condition.

7. During the portion of each year when the Reservation Sanitarian finds it necessary to protect against mosquitos, flies and other insects, which are of a kind and occur in such numbers as to cause a hazard to health, every direct opening from a dwelling to outdoor space shall be effectively protected to prevent entry to said insects.

05-07-01 **GENERAL REQUIREMENTS RELATING TO THE SAFE AND SANITARY MAINTENANCE OF PARTS OF DWELLINGS AND DWELLING UNITS**

No person shall occupy or let to another for occupancy any dwelling or dwelling unit which does not comply with the following requirements:

1. Every foundation, exterior wall and roof shall be substantially weather-tight, and rodent proof, and shall be kept in sound condition and good repair. All exterior wood surfaces shall be adequately protected from water seepage, and against decay.
2. Every floor, interior wall, and ceiling shall be kept in sound condition and good repair.
3. Every window, exterior door, and basement hatchway shall be reasonably weather-tight, water-tight, and rodent proof and shall be kept in good sound working condition and good repair.
4. Every inside and outside stairway shall be maintained in safe and sound condition and good repair.
5. Every plumbing fixture and water and waste pipe shall be installed in an approved manner, and maintained in good, sanitary working condition, free from defects, leaks and obstructions.
6. Every water closet compartment floor surface and bathroom floor surface shall be constructed and maintained so as to be reasonably impervious to water, and so as to permit such floor to be easily kept in a clean and sanitary condition.
7. Every supplied facility, piece of equipment or utility shall be so constructed and installed that it will function safely and effectively and shall be maintained in satisfactory working condition.
8. No owner, operator, or occupant shall cause any service, facility, equipment, or utility which is required under this article to be removed from, shut off, or discontinued in any occupied dwelling or dwelling unit, except for such temporary interruption as may be necessary while actual repairs or alterations are in process, or during temporary emergencies.

9. All rain water shall be so drained and conveyed from every roof and away from every foundation so as not to cause dampness in dwellings or erosion of exterior wall surfaces.

05-08-01 MINIMUM SPACE, USE, AND LOCATION REQUIREMENTS

No person shall occupy or let to another for occupancy and dwelling or dwelling unit which does not comply with the following requirements:

1. Every dwelling unit shall contain at least 150 square feet of floor space the first occupant thereof, and at least 100 additional square feet of floor space for every additional occupant thereof; the floor space to be calculated on the basis of total habitable room area, provided that non-habitable area shall be counted in determining the maximum permissible occupancy up to ten percent (10%) of the total habitable area; and
2. At least one-half (1/2) of the floor area of every habitable room shall have a ceiling height of at least seven (7) feet; and the floor area part of any room where the ceiling height is less than five (5) feet shall not be considered as part of the floor area in computing the total floor area of the room for determining the maximum permissible occupancy thereof.
3. No basement or cellar space shall be let as a habitable room and no basement or cellar space shall be used as a dwelling unit or rooming unit unless:
 - a. The floor and walls are impervious to leakage of underground and surface runoff water and are free from dampness;
 - b. The total amount of light required in each room is equal to at least the minimum amount of light as required in Section 05-06-01, subsection 1; and
 - c. The facilities for ventilation in each room are equal to at least the minimum as required under Section 05-06-01, subsection 2.

05-09-01 RESPONSIBILITIES OF OWNERS AND OCCUPANTS

Every owner of a dwelling containing two or more dwelling units shall be responsible for maintaining in a clean and sanitary condition the shared or public areas of the dwelling and premises thereof.

- 05-09-02** Every occupant of a dwelling unit shall keep in a clean and sanitary condition that part of the dwelling, dwelling unit, and premises thereof which he occupies and controls.

- 05-09-03 Every occupant of a dwelling or dwelling unit shall dispose of all his rubbish in a clean and sanitary manner by placing it in the rubbish container required by Section 05-05-01, subsection 7.
- 05-09-04 Every occupant of a dwelling or dwelling unit shall dispose of all his garbage and other organic waste which might provide food for insects and rodents, in a clean and sanitary manner, by placing it in the garbage disposal facilities or garbage storage containers required by Section 05-05-01, subsection 8.
- 05-09-05 Every occupant of a dwelling unit shall keep all plumbing thereof in a clean and sanitary condition and shall be responsible for the exercise of reasonable care in the proper use and operation thereof.
- 05-09-06 Every occupant of a dwelling containing a single dwelling unit shall be responsible for the extermination of any insects, rodents, or other pests therein or on the premises; and every occupant of a dwelling unit in a dwelling containing more than one dwelling unit shall be responsible for such extermination whenever his dwelling unit is the unit primarily infested. Notwithstanding the foregoing provisions of this Section, whenever infestation is caused by failure of the owner or operator to maintain a dwelling in a rat proof or reasonably insect proof condition, extermination shall be the responsibility of the owner or operator. Whenever infestation exists in two or more of the dwelling units in any dwelling containing two or more dwelling units, extermination thereof shall be the responsibility of the owner and operator.

05-10-01 SEVERABILITY

S.W.S.T. CODE

Amendment

New Adoption

Judicial Approved

03-24-88

Council Adopted

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