

**SISSETON WAHPETON OYATE
OF THE LAKE TRAVERSE RESERVATION
LAW AND ORDER CODE**

**CHAPTER 74
DISTRICT AUDIT ORDINANCE**

**TITLE ONE
GENERAL PROVISIONS**

74-01-01 Authority

The Sisseton-Wahpeton Oyate of the Lake Traverse Reservation is a federally-recognized Indian tribe exercising inherent sovereign powers of self government, which is recognized by several Treaties with the United States of America. By adopting this Ordinance, the Sisseton-Wahpeton Oyate exercises its inherent and Treaty-protected right to confirm and clarify existing Tribal law that each of the seven Districts are local governments. Congress also has acknowledged in the Single Audit Act that Indian tribes may establish any unit of local government. Until Congress acts, the Sisseton-Wahpeton Oyate retain its existing sovereign powers and the inherent and Treaty-recognized sovereignty of the Sisseton-Wahpeton Oyate cannot be impliedly abrogated.

74-01-02 Findings

The Sisseton-Wahpeton Oyate of the Lake Traverse Reservation finds that the Districts are properly deemed local governments under Tribal law and Federal law. The Constitution establishes the Districts as local governments capable of managing "its own affairs not inconsistent with the Tribe's Constitution." Section 4, Art. IV. The following facts also support the finding that the Districts are local governments:

- (A) Each District has adopted or may adopt its own Constitution in order to manage its own affairs.
- (B) According to Article V, Sections 4 and 5, of the Constitution, Tribal members belong to one District.
- (C) The Districts have established their own District Councils. The District Councils are accountable to the District members for all District affairs. The Districts hold their own elections to elect their District officers.
- (D) The Districts have the power to sue and be sued. Notwithstanding any other provision of law, the District is authorized to waive its immunity from suit for any particular agreement, matter or transaction as may be entered into to further the

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purposes of the District. Any waiver by a District shall be in the form of a resolution duly adopted by the District, which resolution shall not require the approval of the Sisseton-Wahpeton Oyate or the Secretary of the Interior. The resolution shall identify the party or parties for whose benefit the waiver is granted, the transaction and the claims for which the waiver is granted, the property of the District which may be subject to execution to satisfy any judgment which may be entered in the claim, and shall identify the Tribal court as the forum in which suit against the District may be brought. Any waiver authorized by the District cannot, by operation of Tribal law, include or otherwise apply to the Tribe.

(E) The Districts own or may own property.

(F) The Districts own and operate their own economic development projects and some Districts have established separate District organizations, such as a corporation, to manage these economic development projects.

(G) The Districts operate their own local government programs.

(H) The Districts have geographical boundaries.

(I) The Districts have the power to tax as long as this power is exercised consistent with the Constitution and its Constitutional power to manage its own affairs.

(J) The Districts have the power to issue bonded debt as long as this power is exercised consistent with the Constitution and its Constitutional power to manage its own affairs.

74-01-03 Purpose

To officially establish by Tribal law that the Districts are deemed local governments. To require that the Districts conduct their own local government audit which would account for the Tribal revenues, including Tribal gaming revenues, received by each District.

74-01-04 Effective Date

This Ordinance shall become effective upon the date of its adoption by the Tribal Council of the Sisseton-Wahpeton Oyate of the Lake Traverse Reservation. The provisions of this Ordinance shall apply to any audit, regardless of the year, being conducted by an outside, independent auditor, accountant, or firm.

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74-01-05 Name and Citation

This Ordinance shall be known and cited as the District Audit Ordinance of the Sisseton-Wahpeton Oyate of the Lake Traverse Reservation.

74-01-06 Severability

Should any provision set forth in this Ordinance, or application of this Ordinance to any person or circumstance, be held invalid by the Tribal Court of the Sisseton-Wahpeton Oyate of the Lake Traverse Reservation, such a determination will not affect the full remainder of the provisions or the application of the provisions to another person or circumstance.

74-01-07 Applicability

This Ordinance shall be applicable to all areas within the original exterior boundaries of the Lake Traverse Reservation that are subject to the jurisdiction of the Sisseton-Wahpeton Oyate of the Lake Traverse Reservation.

74-01-08 Conflicting Laws

Should any Tribal law, Ordinance, Resolution or action conflict with this Ordinance then the provisions of this Ordinance shall control and prevail.

TITLE TWO AUDIT REQUIREMENT FOR EACH DISTRICT

74-02-01 Receipt Of Tribal Revenues

Any District receiving Tribal revenues, including gaming revenues, must conduct an audit to account for its expenditure of tribal gaming revenues. The audit shall be an annual audit conducted by an outside, certified public accountant. The audit shall be conducted in accordance with generally accepted accounting principles. The District must select an auditor before the end of the fiscal year to be audited. If the District fails to select an auditor by September 30 of each year, the Tribal Council shall choose an auditor for the District or establish a Tribal office or officer who shall conduct the annual audit. The District audit must cover the entire fiscal year, which shall start on October 1 and end on September 30. The District's audit shall be addressed to both the Tribal Council and the District.

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74-02-02 Expenditure Of Tribal Gaming Revenues

Any District receiving Tribal gaming revenues must ensure that its expenditure of such revenues complies with the gaming laws applicable to the Sisseton-Wahpeton Oyate of the Lake Traverse Reservation.

74-02-03 Failure To Conduct The District Audit

Should a District fail to conduct the annual audit required by sections 74-02-01 and submit the audit by the time specified in section 74-02-04, the District shall be ineligible to receive additional Tribal revenues, including gaming revenues, until the required audit is submitted to the Tribe.

74-02-04 Submittal of Audit and Request for Extension

Each District must submit the audit to the Sisseton Wahpeton Oyate Vice-Chairman's Office by July 1 following the end of the fiscal year audited. A District may request up to a forty-five (45) calendar day extension to submit the audit to the Tribe by filing a written request with the Sisseton Wahpeton Oyate Vice-Chairman's Office no later than May 1 of the year the audit is due. The written request for an extension shall be presented by the Vice-Chairman's Office to the Tribal Council for approval. The Tribal Council will approve or deny the request for extension by May 15. The District shall be ineligible to receive additional Tribal revenues, including gaming revenues, for failure to file a timely request for extension.

TITLE THREE

AUDITS REQUIRED FOR THE SISSETON-WAHPETON OYATE

74-03-01 Primary Government Audit

The District's local government audit is separate from the Tribe's primary government audit and any other Tribal government audit required by Federal law. Each District is a local government and is not to be included within the financial reporting entity of the Tribe.

74-03-02 Tribal Auditor

The Tribal Council reserves the right to establish a Tribal office for an independent auditor. If established, the tribal independent auditor shall meet the independence standards included in generally accepted government auditing standards, which are issued by the Comptroller General.