

SISSETON-WAHPETON SIOUX TRIBE

CODES OF LAW

CHAPTER 7—Landlord Tenant Law

The Sisseton-Wahpeton Oyate Tribal Council hereby enacts the following Landlord-Tenant Code as a means of protecting and balancing the competing interests of landlords and tenants within the jurisdiction of the Sisseton-Wahpeton Oyate.

07-01-01 PURPOSE

WHEREAS, Lack of adequate housing for the benefit of Tribal members remains a continuing problem, and

WHEREAS, the provision of rental housing units by the public and private sectors should be encouraged by insuring adequate protection of property owner' rights; and

WHEREAS, the interests of tenants to continued occupation of leased premises without arbitrary interference by property owners should also be protected; and

WHEREAS, a speedy, fair and adequate remedy should be available to landlords and tenants for redress of grievance; now therefore.

07-02-01 EVICTIONS: LEASE CANCELLATION

07-02-02 Court Order Required

No person shall be evicted without a court order authorizing the eviction.

07-02-03 Grounds for Eviction:

1. The tenant has failed to pay rent when due; or
2. The tenant is using a housing accommodation or other premises for an illegal purpose or in a manner which is contrary to policies of the Sisseton-Wahpeton Housing Authority and /or Department of Housing and Urban Development of policies established by a private landlord; or
3. The tenant is committing or permitting a nuisance; or is maliciously or by gross negligence substantially damaging the premises; or the tenant's conduct is such as to interfere substantially with the comfort and safety of the landlord or other tenants or occupants of the same or another building or structure in the community; or

4. The tenant has unreasonably refused the landlord access to the premises for the purpose of making necessary repairs or improvements required by law or by the lease, or for the purpose of inspection, or of showing the premises to a prospective mortgagee, or other person having a legitimate interest therein; or
5. Expiration of the stated term of the lease and the tenant has continued in possession of the premises without the written permission of the landlord; or
6. A person enters, without right of title, onto vacant or unoccupied land or tenements of another.
7. The tenant, or guest of tenant dependent upon lease restrictions, has been found to be manufacturing or distributing illicit drugs, or controlled substances on the premises.

07-03-01 CANCELLATION OF LEASE

NO lease shall be canceled during its term except for cause as hereinabove defined and pursuant to the procedure herein set forth.

07-03-02 All leases which have been set forth in writing and specify a definite term shall be deemed canceled at the end of the term.

07-03-03 In the case of a housing accommodation tenant, the tenant shall provide at least 60 days prior to the end of the term verification of household members, financial eligibility, and such other information as deemed necessary and appropriate by the housing accommodation to recertify the tenant's eligibility for housing. A NEW LEASE SHALL BE EXECUTED AND APPROVED BY ALL PARTIES. The failure of the tenant to provide the recertification information required shall be deemed cause for cancellation and non-renewal of the lease.

07-04-01 NOTICE TO VACATE PREMISES PRIOR TO ACTION

07-04-02 Notice - General

A landlord or owner of any premises shall not commence an action in Court for eviction prior to three days from the date of service on the tenant of a written notice to vacate and quit the premises. The notice shall be issued and signed by the landlord or his representative and shall specify the description or identification of the premises, the landlord's right to possess same on or before a specified date, or, in the case of past rent due, state the requirements to either pay the funds owing or make an arrangement satisfactory with the landlord for payment of past rent due, vacate the premises on or before the specified date.

07-04-03 Service of the Notices to Vacate and Quit

Service of the notice to vacate and quit may be made by any of the following methods:

1. By personally delivering a copy of the noticed to the tenant/lessee, wherever they may be found; or
2. By personally delivering a copy of the notice to any other person, 16 years of age or older, who is occupying or in charge of the premises; or
3. In the case where no one is on the premises, by posting a copy of the notice in a conspicuous place on the premises while continuing efforts to make personal service; or
4. By depositing said notice in the United States mail, addressed to the tenant, certified mail return receipt requested. Such notice shall be deemed served on the date it is accepted for delivery by the tenant or his representative or at such time it is returned to the landlord by the United States Postal Service as “refused” or “not claimed”

07-05-01 **COMMENCEMENT OF EVICTION PROCEEDINGS**

A proceeding for an eviction shall be commenced in the same manner in which other civil proceedings are commenced. (See Chapter 21, Section 21-14-02). The complaint for eviction shall describe the premises and shall state the reasons why an eviction is sought, and shall itemize amounts past due for rent and/or any other amounts charged to the tenant’s account in connection with the property. Said complaint may be filed not sooner than three (3) days from the date of service of the notice to vacate and quit.

07-06-01 **JURISDICTION OF THE TRIBAL COURT**

The Tribal Court, or its successor, shall have jurisdiction over any eviction proceedings arising out of property situated on tribal or trust land or otherwise falling within “Indian Country”. Any tenant entering into a lease for premises administrated by the Sisseton-Wahpeton Housing Authority, regardless of where said premises may be situated, is deemed to consent to the jurisdiction of this Court over any questions arising out of such lease.

07-07-01 **SERVICE OF PROCESS**

Service of the summons and complaint upon the tenant shall be in the manner prescribed for other civil actions. The summons shall state that an answer to the complaint or an appearance may be made by the defendant before the date specified for hearing and that failure to answer or appear may result in a default judgment and an order of eviction. If possible, the summons shall specify a hearing date.

07-08-01 HEARING

A hearing shall be set on the complaint for eviction not less than five (5) days nor more than ten (10) days from date the complaint is filed.

07-09-01 JUDGMENT

After a hearing on the complaint for eviction, the Court may, if service of the summons and complaint has been made on the defendant, enter a judgment for the plaintiff for money damages and for restitution of the premises. The judgment may include back rent, other funds owing, damages resulting from injuries to the property and court costs and such other relief as may be just and proper under the circumstances. If the summons and complaint have been served upon the defendant less than five (5) days before the hearing, the court may enter such interim orders as appear necessary to protect the interest of the parties as they appear from the pleading.

07-10-01 ORDER OF EVICTION

No order of eviction shall take effect until after the expiration of forty-eight (48) hours from the time of the entry of judgment in favor of the plaintiff. The order shall be executed by the Tribal Police during daylight hours.

07-11-01 VACATING AN EVICTION BY DEFAULT

Any tenant may at any time after the entry of a judgment of eviction by default, petition the Court to vacate the judgment and any order of eviction. The Court shall vacate such a judgment and order when the tenant can show that the Court did not have jurisdiction to enter the order or judgment, or that service of process was not made according to law, or that the order or judgment is contrary to law. If the Court vacates an order or judgment of eviction by default, the Court shall hold a hearing on the petition or complaint within (10) days thereafter, and shall at the conclusion of the hearing, enter judgment in favor of the plaintiff or defendant in accordance with the provisions of Section 07-07-01 of this Chapter.

07-12-01 APPEAL

In order to stay execution of a judgment of eviction, an appeal must be filed within forty-eight (48) hours after entry of judgment. Execution of the judgment shall automatically be stayed pending final disposition of the appeal. If money judgment was entered, such appeal must be accompanied by a cash bond or such other bond as approved by the court secure the money judgment and any additional rental payments which may accrue during the pendency of the appeal.

07-13-01 LANDLORD DUTY TO MAKE REPAIRS

A landlord shall have the duty of making necessary repairs or improvements. Any such repairs or improvements made by tenants shall be at their own expense, without right of contribution from landlord, and shall be deemed permanent fixtures to the property.

- 07-13-02** The landlord may seek a review of the tenant's action in the Tribal Court.
- 07-13-03** This section shall be applicable only to repairs which are the landlord's responsibility under the lease or other rental agreement, or repairs which are needed as the result of ordinary wear and tear to the premises.
- 07-13-04** The landlord shall disclose information of prior manufacturing or distribution of methamphetamine to any lessee or any person who may become a lessee of the premises.
- 07-13-05** Exposure to the chemicals involved in the manufacture of methamphetamine is a public health hazard. The landlord shall be required to have any residential property intended for leasing tested and evaluated for hazardous chemicals when the lessor has knowledge that the property has been used for the manufacture of methamphetamine. Testing and evaluating shall be by company or individuals certified to perform such testing. The landlord shall follow any recommendations by to eliminate any contamination prior to leasing the property.
- 07-13-06** Landlord shall follow established protocols by the Housing Authority in reference to clean up of methamphetamine.
- 07-14-01** **HOUSING DIVISION EXCLUSIVE JURISDICTION**
All matters arising under this Chapter shall be heard and decided exclusively by the Housing Division of the Tribal Court.
- 07-15-01** **CRIMINAL PROCEEDINGS EXEMPTED FROM HOUSING DIVISION JURISDICTION**
Any criminal complaint alleging entry onto lands or premises with force or threat of violence, detention of lands or premises by force or threat of violence, damage to premises or land or other acts or omissions constituting an offense under Chapter 24 of this code shall not be heard or decided upon by the Housing Division of the Tribal Court. Such complaint shall be heard by the part of the Tribal Court vested with general jurisdiction over all matters other than those brought pursuant to this chapter.
- 07-16-01** **NO WAIVER OF IMMUNITY**
Nothing in this Code shall be construed as a waiver of sovereign immunity for the Sisseton-Wahpeton Oyate, its departments, agencies, entities, employees, or agents.
- 07-17-01** **SEVERABILITY**
If any clause, sentence, paragraph, section, or part of this code shall, for any reason be adjudicated by the Tribal Court or the Tribal Appellate Court, to be invalid or unconstitutional, such judgment 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 judgment shall have been rendered.

07-18-01 CONSTRUCTION

This Code shall be interpreted and applied in a manner consistent with all other Codes, Laws, Resolutions, and Regulations of the Sisseton-Wahpeton Oyate.

07-19-01 AMENDMENT

This Code may be amended only upon affirmative vote of a majority of the Tribal Council of the Sisseton-Wahpeton Oyate.

07-20-01 EFFECT OF HEADINGS

Headings shall not be deemed to govern, limit, modify, or in any manner affect the scope, meaning, or intent of the provisions of any portion of this Code.

07-21-01 INTERPRETING DEFINITIONS

Words or phrases used in this Code shall be interpreted so as to give them the meaning they have in common usage for the Sisseton-Wahpeton Oyate and to give this Code its most reasonable application. The words and phrases in this Chapter are specifically defined and shall control and prevail over any other definition.