

S.W. 1-1-00
 Amendment
 New Adoption
Judicial Approved
02-04-82
Council Adopted
05-04-82

SISSETON-WHAPETON SIOUX TRIBE

CHAPTER 15

NON-PUBLIC GROUND WATER SUPPLY SYSTEMS ORDINANCE

15-01-01 NON-PUBLIC GROUND WATER SUPPLY SYSTEMS ORDINANCE

An Ordinance regulating the development of ground-water systems and the location, development, construction, or reconstruction of wells; authorizing the establishment of standards for the location, construction, or reconstruction, installation or operation of wells, appurtenant pumping equipment and ground-water supply systems; providing for the issuance of permits for the construction or reconstruction of wells; providing for the licensing of persons engaged in the business of well-drilling or installation of well pumps; prescribing and providing for the enforcement of this Ordinance and penalties for the violation of its provisions.

15-02-01 SCOPE

This Ordinance applies to all wells intended or used for supplying ground water for domestic purposes except that it shall not apply to those wells which are licensed or subject to approval by a Reservation Agency as public or community water supplies.

15-03-01 DEFINITIONS

For the purpose of this Ordinance, the following terms shall have the meaning ascribed to them in this Section.

15-03-02 Health Officer - means the legally designated health authority of the Sisseton-Wahpeton Sioux Tribe or his authorized representative.

15-03-03 Ground Water - means water which is present, flowing, or located below the surface of the earth.

15-03-04 Well - shall mean an excavation or opening into the ground made by digging, boring, drilling, driving, or other methods.

15-03-05 Ground-Water Supply System - means a well, and all appurtenances thereto for the delivery of ground water for use, including pumps and piping.

15-03-06 Domestic Purposes - includes use for human consumption and for the processing and preparation of food for human consumption.

15-03-07 Permit - shall mean a written permit issued by the health officer permitting the construction of a ground - water supply system.

15-03-08 Person - shall mean and include any individual, firm, public or private corporation, association, partnership, or other activity.

15-04-01 **ESTABLISHMENT OF STANDARDS FOR GROUND-WATER SUPPLY SYSTEMS BY THE HEALTH OFFICER**

The health officer, in order to protect the health and safety of the people of the Sisseton-Wahpeton Sioux Tribe and of the general public hearing, to adopt, promulgate, and amend, from time to time, rules and regulations governing the location, design, construction, reconstruction, installation, operation, and maintenance of ground-water supply systems. Such rules and regulations shall establish such minimum standards as, in the judgement of the health officer, are necessary to insure that ground-water supply systems are protected against contamination and pollution and will not constitute a health hazard.

15-04-02 The health officer shall file a certified copy of all rules and regulations, which he may adopt, with the Judicial Committee and the Clerk of Court of the Sisseton-Wahpeton Sioux Tribe.

15-04-03 Rules and regulations adopted by the health officer shall have the same force and effect as the provisions of this Ordinance and penalty for the violation thereof shall be the same as for the violation of the provisions of this Ordinance as herein provided.

15-04-04 Notice of public hearings for the consideration, adoption, and amendment of rules and regulations authorized herein shall specify the date, time and place, of such hearings. Such notice shall be published at least three (3) times in a newspaper of general circulation in the Sisseton-Wahpeton Sioux Tribal jurisdiction and in such other publications as the health officer may determine, at least twenty (20) days before such public hearing.

15-05-01 **PERMITS**

It shall be unlawful for any person to construct, alter, or extend a ground-water supply system within the Sisseton-Wahpeton Sioux Tribe unless he holds a valid permit issued by the health officer in the name of the applicant for the specific construction, alteration, or extension proposed.

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

- 15-05-02 All applications for permits shall be made to the health officer who shall issue a permit in the applicant's name upon compliance with provisions of this Ordinance and any regulations adopted hereunder.
- 15-05-03 The health officer may (shall) refuse to grant a permit for the construction of any individual ground-water supply system where adequate public or community water system distribution lines are located within _____ feet of the premises to be served by the proposed ground-water supply system.
- 15-05-04 Applications for permits shall be in writing, shall be signed by the applicant, and shall include the following:
1. Name and address of the applicant;
 2. Lot and block number of property as determined by the office of the Tax Assessor, or the equivalent unit of the Sisseton-Wahpeton Sioux Tribe on which construction, alteration, or extension is proposed.
 3. Complete plan of the proposed water facility, with substantiating data, if necessary, attesting to its compliance with the minimum standards of the health officer;
 4. Location of the nearest distribution line of a public or community water supply system; and
 5. Such further information as may be required by the health officer to substantiate that the proposed construction, alteration, or extension complies with regulations promulgated by the health officer.
- 15-05-05 A complete plan for the purpose of obtaining a permit to be issued by the health officer shall include:
1. The number, location, and size of all ground-water supply systems to be constructed, altered, or extended;
 2. The location, of water supplies, water supply piping, existing sewage-disposal facilities, buildings or dwellings, or other potential sources of ground-water pollution, and adjacent lot lines; and
 3. Plans of the proposed water-supply facilities to be constructed, altered, or extended.

15-05-06 Any person whose application for a permit under this Ordinance has been denied, may within ten (10) days after official notification of such action, file a written request for a hearing before the health officer. Such hearing shall be held within thirty (30) days after the receipt of such request by the health officer, and upon reasonable notice to the applicant. The health officer shall affirm, modify, or revoke the denial, or issue the permit on the basis of the evidence presented at the hearing.

15-06-01 **INSPECTIONS**

The health officer is hereby authorized and directed to make such inspections before, during, and after construction of ground-water supply systems as may be deemed necessary to determine satisfactory compliance with the Ordinance and regulations promulgated hereunder.

15-06-02 It shall be the duty of the owner of occupant of the property to give the health officer free access to the property at reasonable times for the purposes of making inspections as are necessary to determine compliance with the requirements of this Ordinance and regulations promulgated hereunder.

15-07-01 **LICENSING OF WELL-DRILLERS AND PUMP INSTALLERS**

It shall be unlawful for any person to engage in the business of well-drilling or of installation of pumps for wells within the police jurisdiction of the Sisseton-Wahpeton Sioux Tribe unless he holds a valid license issued to him by the health officer.

15-07-02 The health officer is authorized to adopt, promulgate, and amend from time to time, rules and regulations establishing qualifications for well-drillers and pump installers after a public hearing as provided in Section 15-04-04 of this ordinance.

15-07-03 An application for a license to engage in the business of well-drilling or pump installing shall be made in writing in a form prescribed by the health officer, shall be accompanied by a deposit of a fee of _____ dollars (\$_____) and shall include such information as the health officer deems necessary to determine the qualifications of the applicant.

15-07-04 Each license issued hereunder shall be valid for a period of ____ years and shall be renewable for succeeding year periods upon payment of a renewal fee of ____ dollars.

15-07-05 Any person whose application for a license under this Section has been denied may request and shall be granted a hearing before the health officer in accordance with the hearing procedure set out in Section 15-05-06 of this Ordinance.

Amended
 New - 06/09
Judicial Approval
02-06-82
Council Accepted
05-04-82

15-07-06 Whenever the health officer finds that a licensee under this Section is, or has engaged in practices that are in violation of any provisions of this Ordinance, or any rule or regulation adopted pursuant thereto, the health officer may give notice in writing to the licensee describing the alleged violation and stating that an opportunity for hearing will be provided to the licensee to show cause why his license should not be suspended or revoked. If a written request for such hearing is filed with the health officer within ten (10) days of receipt of the notice, such hearing shall be held in accordance with the procedures provided by Section 15-05-06.

15-07-07 At the conclusion of the hearing, or if no hearing is requested, the hearing officer may dismiss the notice, suspend the license for a period of not more than one (1) year, and in cases of wilful or serious violation of this Ordinance, or of rules or regulations adopted hereunder, revoke the license. Such suspension or revocation shall be in addition to the penalties provided for herein.

15-07-08 No application for license shall be approved for a period of one (1) year after the applicant's license has been revoked.

15-08-01 ENFORCEMENT - NOTICES - HEARINGS - ORDERS

Whenever the health officer determines that there are reasonable grounds to believe that there has been a violation of any provision of this Act or of any rule or regulations adopted pursuant thereto, he shall give written notice of such alleged violation to the person or persons responsible therefor as hereinafter provided. Such notice shall:

1. Include a statement of the reasons why it is being issued, citing the provisions of the Ordinance or regulations involved;
2. Allow a reasonable performance of any Act it requires; be served upon the owner or his agent or the occupant as the case may require; provided, that such notice shall be deemed to be properly served upon such owner or agent, or upon such occupant, if a copy thereof is served upon him personally, or if a copy thereof is sent by registered mail to his last known address; or if he is served with such notice by any other method authorized or required under the laws of this Reservation; and
3. State that unless a condition described is corrected within the specified period of time, any permit issued under this Ordinance may be suspended or revoked, or court action initiated.

S.W.S.T.

Amendment
 New Adoption

Judicial Approved

02-06-82

Council Adopted

05-04-82

15-08-02 Any person affected by such notice may request and shall be granted a hearing on the matter before the health officer; provided, that such person shall file, in the office of the health officer, a written petition requesting such hearing and setting forth a brief statement of the grounds therefore, within ten (10) days after the filing of the petition and shall give the petitioner written notice thereof. Provided that upon application of the petitioner, the health officer shall postpone the date of the hearing for a reasonable time beyond such ten (10) day period, if, in his judgement, the petitioner has submitted a good and sufficient reason for such postponement.

15-08-03 Based upon findings of such hearing, the health officer shall sustain, modify, or withdraw the notice, or initiate such enforcement action as he may deem such notice, it shall be deemed to be an order. Any notice served pursuant to section 15-08-01 of this ordinance shall automatically become an order if a written petition for a hearing officer within ten (10) days after such notice is served and the health authority may issue an order suspending or revoking the permit, or court action may be initiated if a reinspection indicates appropriate corrective action has not been taken within the time specified in the notice.

15-08-03 The proceeding at such hearing, including the finding and decisions of the health officer, shall be summarized, reduced to writing, and entered as a matter of public record in the office of the health officer. Such record shall also include a copy of every order issued in connection with the matter. Any person aggrieved by the decision of the health officer may seek relief there from in any Court of competent jurisdiction, as provided by the laws of this Reservation.

15-09-01 PENALTIES

Any person who violates any provision of this Ordinance, or any provision of any regulation adopted by the health officer pursuant to authority granted by this Ordinance, shall, upon conviction thereof, be punished by a fine of not less than _____ dollars (\$ _____), nor more than _____ dollars (\$ _____); and/or by imprisonment of not less than _____, (_____) days nor more than _____, (_____) days; and each days failure to comply shall constitute a separate violation.

15-10-01 CONFLICT OR ORDINANCE - EFFECT OF PARTIAL INVALIDITY

In any case where a provision of this Ordinance is found to be in conflict with a provision of any zoning, building, fire, safety, or health Ordinance or code of the Sisseton-Wahpeton Sioux Tribe, existing on the effective date of this Ordinance, the provisions which,

Amendment
 New Adoption
Judicial Approved
02-06-82
Council Adopted
11.04.82

in the judgement of the health and safety of the people shall prevail. In any case where a provision of this Ordinance is found to be in conflict with a provision of any other Ordinance or code of the Sisseton-Wahpeton Sioux Tribe existing on the effective date of this Ordinance, which establishes a lower standard for the promotion and protection of health and safety of the people, the provisions of this Ordinance or codes are hereby declared to be repealed to the extent that they may be found in conflict with this Ordinance.

15-11-01 SEVERABILITY

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.

S.W.S.T. CODE

Amendment

New Adoption

Judicial Approved

02-24-88

Council Adopted

02-01-88

S.W.S.T. CODE

Amendment

New Adoption

Judicial Approved

02-06-82

Council Adopted

05-04-82