



August 3, 2010

By First Class Mail and  
Facsimile (507) 637-4380

Gabe Prescott, President  
Lower Sioux Indian Community  
P.O. Box 308  
Morton, MN 56270

Re: Lower Sioux Indian Community gaming ordinance amendment

Dear President Prescott:

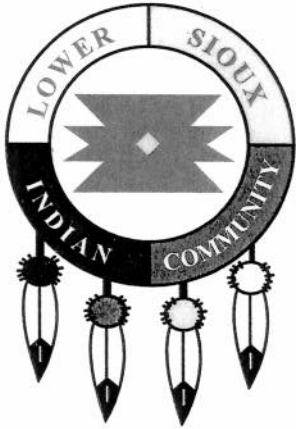
This letter responds to your request for the National Indian Gaming Commission (NIGC) to review and approve an amendment to the Lower Sioux Indian Community gaming ordinance enacted by Resolution No. 10-119. Earlier this year, Acting Chairman Skibine approved a previous amendment to the Tribe's gaming ordinance.

We appreciate that how a tribe structures its regulatory agencies is a sovereign decision to be made by tribes. Based on my review, the ordinance is consistent with the requirements of the Indian Gaming Regulatory Act and the NIGC's regulations. Accordingly, it is hereby approved. If you have any questions, please feel free to contact Staff Attorney Dawn Sturdevant Baum at 202-632-7003.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Tracie Stevens".

Tracie Stevens  
Chairwoman



# Lower Sioux Indian Community

P.O. Box 308 • 39527 Res. Hwy. 1

Morton, Minnesota 56270

*Cansayapi Otunwe*

MAY - 5 2010

## LOWER SIOUX INDIAN COMMUNITY RESOLUTION NO. 10- 88

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### AMENDING THE LOWER SIOUX INDIAN COMMUNITY IN MINNESOTA GAMING ORDINANCE

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- WHEREAS, The Lower Sioux Indian Community is a duly organized and federally recognized Indian Tribe, under 25 U.S.C. §476, and is governed by a Constitution and By-Laws originally adopted by the Community's members on May 16, 1936, and approved by the Secretary of the United States Department of the Interior on June 11, 1936; and
- WHEREAS, pursuant to the Constitution and Bylaws of the Lower Sioux Indian Community, the Community Council is the governing body of the Community; and
- WHEREAS, the Community Council has the authority, under Article V, section (l), to regulate Community agencies and officials, and under Article V, section (o), to protect and preserve the property of the Lower Sioux Community; and
- WHEREAS, late in 2009, the Community Council approved an amendment to the Lower Sioux Community Gaming Ordinance that, *inter alia*, restored the Community Council's function as the Community's Gaming Commission, and the National Indian Gaming Commission subsequently also approved that amendment; and
- WHEREAS, the Gaming Ordinance amendment approved by the Community Council and the National Indian Gaming Commission late in 2009 contains numerous provisions that require the Community Gaming Commission to act ethically and in accordance with law and the Community Council supports and will scrupulously abide by those provisions; and

WHEREAS, the Gaming Ordinance amendment approved Community Council and the National Indian Gaming Commission late in 2009 retained a provision from the predecessor Ordinance that forbids Gaming Commissioners from participating in the gaming in the Lower Sioux Community's gaming enterprises; and


WHEREAS, historically the Lower Sioux Community has permitted its Gaming Commissioners to participate in gaming in the Community's gaming enterprises; such gaming is part of the Community's social activity; it creates a sense of community and neither jeopardizes the ethics of the Gaming Commissioners nor violates any applicable law;

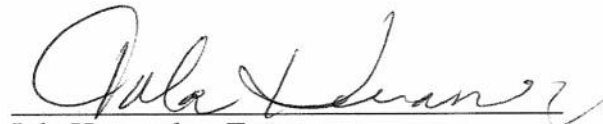
**NOW THEREFORE BE IT RESOLVED**, that the Lower Sioux Community Council approves the amendments to the Community's Gaming Ordinance reflected in the "redlined" document attached hereto, under which the Community's Gaming Commissioners no longer will be forbidden from participating in gaming in the Community's gaming enterprises but will remain fully and completely subject to the ethical and legal standards of the Gaming Ordinance and the Indian Gaming Regulatory Act of 1988;

**AND BE IT FURTHER RESOLVED**, that the Lower Sioux Community Council requests that the National Indian Gaming Commission approve these amendments.

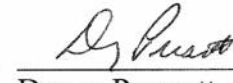
#### CERTIFICATION

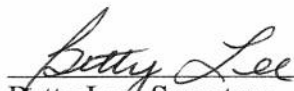
I certify that Resolution No. 10- 88 was duly adopted by the Community Council of the Lower Sioux Indian Community at a duly called meeting held on the 28 day of April, 2010, a quorum being present, by a vote of 5 in favor, 0 opposed, and 0 abstaining.

  
\_\_\_\_\_  
Gabe Prescott, President

  
\_\_\_\_\_  
Iola Hernandez, Treasurer

  
\_\_\_\_\_  
Brenda Pendleton, Vice-President

  
\_\_\_\_\_  
Denny Prescott, Assistant Secretary-  
Treasurer

  
\_\_\_\_\_  
Betty Lee, Secretary

**Lower Sioux Indian Community in Minnesota**

**Tribal Gaming Ordinance**

[Revised April 28, 2010, Resolution 10-88, and July 8, 2010, Resolution 10-111]

[Approved by National Indian Gaming Commission, August 3, 2010]

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## **I. Purpose.**

The Lower Sioux Indian Community empowered by Community's Constitution hereby enacts this ordinance in order to regulate gaming activities within the Community's jurisdiction.

## **II. Definitions.**

Unless a different meaning is clearly indicated in this Ordinance, the terms used herein shall have the same meaning as defined in the Indian Gaming Regulatory Act (IGRA), 25 U.S.C. §2701 et seq., and its regulations, 25 C.F.R. § 500 et seq. Specifically:

A. "Class I gaming" means social games solely for prizes of minimal value or traditional forms of Indian gaming engaged in by individuals as a part of, or in connection with, tribal ceremonies or celebrations.

B. "Class II gaming" has the same definition as laid out in 25 U.S.C. § 2703(7)(A) and means

1. the game of chance commonly known as bingo (whether or not electronic, computer, or other technologic aids are used in connection therewith):
  - i. which is played for prizes, including monetary prizes, with cards bearing numbers or other designations,
  - ii. in which the holder of the card covers such numbers or designations when objects, similarly numbered or designated, are drawn or electronically determined, and
  - iii. in which the game is won by the first person covering a previously designated arrangement of numbers or designations on such cards, including (if played in the same location) pull-tabs, lotto, punch boards, tip jars, instant bingo, and other games similar to bingo, and
2. card games that --
  - i. are explicitly authorized by the laws of the State, or

ii. are not explicitly prohibited by the laws of the State and are played at any location in the State, but only if such card games are played in conformity with those laws and regulations (if any) of the State regarding hours or periods of operation of such card games or limitations on wagers or pot sizes in such card games.

3. The term "Class II gaming" does not include:

i. any banking card games, including baccarat, chemin de fer, or blackjack (21), or

ii. electronic or electromechanical facsimiles of any game of chance or slot machines of any kind.

C. "Class III gaming" means all forms of gaming that are not class I gaming or class II gaming.

D. "Commission" means the Lower Sioux Community Council acting as the Community's Tribal Gaming Commission, performing regulatory oversight and monitoring, in compliance with Tribal, federal, and applicable State regulations.

E. "Commissioner" means a member of the Lower Sioux Community Council, acting as a Tribal Gaming Commissioner.

F. "Compact" means a Tribal-State Compact concerning class III gaming approved pursuant to 25 U.S.C. § 2710(d).

G. "Complimentary" means a service or item provided at no cost, or at a reduced cost, to a customer "Community Council" means the Community Council of the Lower Sioux Indian Community.

H. "Directly related to" means a spouse, child, parent, grandparent, or grandchild.

I. "Director" means a Member of the Tribal Gaming Board of Directors.

J. "Indian lands" means:

1. all lands within the limits of any Indian reservation; and
2. any lands title to which is either held in trust by the United States for the benefit of any Indian Tribe or individual or held by any Indian Tribe or individual subject to restriction by the United States against alienation and over which an Indian Tribe exercises governmental power.

K. "Indian Tribe" means the Lower Sioux Indian Community.

L. "Key Employee" means:

1. A person who performs one or more of the following functions:
  - i. Bingo caller;
  - ii. Counting room supervisor;
  - iii. Chief of security;
  - iv. Custodian of gaming supplies or cash;
  - v. Floor manager;
  - vi. Pit boss;
  - vii. Dealer;
  - viii. Croupier;
  - ix. Approver of credit; or
  - x. Custodian of gambling devices including persons with access to cash and accounting records within such devices;
2. If not otherwise included, any other person whose total cash compensation is in excess of \$50,000 per year; or
3. If not otherwise included, the four most highly compensated persons in the gaming operation.

M. “Net Revenues” means gross gaming revenues of an Indian gaming operation less

1. Amounts paid out as, or paid for, prizes; and
2. Total gaming-related operating expenses, excluding management fees.

N. “Per Capita Payment” means the distribution of money or other thing of value to all members of the Community, or to identified groups of members, which is paid directly from the net revenues of any tribal gaming activity.

O. “Primary Management Official” means --

1. The person(s) having management responsibility for a management contract;
2. Any person who has authority:
  - i. To hire and fire employees; or
  - ii. To set up working policy for the gaming operation; or
3. The chief financial officer or other person who has financial management responsibility.

### **III. Gaming Authorized.**

Class II and Class III gaming are hereby authorized.

### **IV. Ownership.**

The Tribe shall have the sole proprietary interest in and responsibility for the conduct of any gaming operation authorized by this ordinance.

### **V. Use of Gaming Revenue.**

A. Net revenues from tribal gaming shall be used only for the following purposes:

1. to fund tribal government operations and programs;
2. to provide for the general welfare of the Tribe and its members;
3. to promote tribal economic development;
4. to donate to charitable organizations; or
5. to help fund operations of local government agencies.

B. Any Community Per Capita Payments to tribal members shall be in accordance with a plan submitted to and approved by the Secretary of the Interior under 25 U.S.C. § 2710(b)(3).

C. The Community shall ensure that the interests of minors and other legally incompetent persons who are entitled to receive any per capita payments under a Tribal per capita payment plan are protected and preserved, and that the per capita payments are disbursed to the parents or legal guardian of such minors or legal incompetents in such amounts as may be necessary for the health, education, or welfare of the minor or other legally incompetent person, under a plan approved by the Community Council and the Secretary of the Interior.

### **VI. Gaming Commission.**

A. The Community hereby establishes a Tribal Gaming Commission whose duty it is to regulate tribal gaming operations. The Tribal Gaming Commission shall be the Community Council.

B. The purpose of the Tribal Gaming Commission is regulatory, not managerial. The Tribal Gaming Commission will conduct oversight to ensure compliance with Tribal, Federal, and, if applicable, State laws and regulations. The Tribal Gaming Commission will serve as the licensing authority for individuals employed in the gaming operation and administer background investigations as part of the licensing process. The Tribal Gaming Commission will also have a role in monitoring compliance with the internal control standards for the gaming operation and in tracking revenues. In order to carry out its regulatory duties, the Tribal Gaming Commission shall have unrestricted access to all



areas of the gaming operation and to all records. The Tribal Gaming Commission shall have authority to take enforcement actions, including suspension or revocation of an individual gaming license when appropriate.

C. The Community recognizes the importance of an independent Tribal Gaming Commission in maintaining a well-regulated gaming operation. To avoid potential conflicts of interest between the operation and regulation of the gaming facility, the Community hereby finds that, at a minimum, members of the Gaming Commission are prohibited from accepting complimentary items from the gaming operation.

D. The Tribal Gaming Commission shall:

1. Conduct or cause background investigations to be conducted on, at a minimum, primary management officials and key employees;
2. Review and approve all investigative work conducted;
3. Report results of background investigations to the NIGC;
4. Obtain and process fingerprints, or designate a law enforcement agency to obtain and process fingerprints;
5. Make suitability determinations, which shall be signed by the Chairperson of the Tribal Gaming Commission;
6. Issue gaming licenses to management officials and employees of the operation, consistent with the suitability determination;
7. Inspect, examine and monitor all gaming activities, and have immediate access to review, inspect, examine, photocopy and audit all records of the gaming establishment;
8. Ensure compliance with all Tribal, State, and Federal laws, rules, and regulations regarding Indian gaming;
9. Investigate any suspicion of wrongdoing associated with any gaming activities;
10. Hold hearings on patron and/or employee complaints, in compliance with procedures established in the gaming ordinance and other Tribal gaming regulations;
11. Comply with any and all reporting requirements under the IGRA, any Tribal-State Compact to which the Community is a party, and any other applicable law;
12. Promulgate and issue regulations necessary to comply with the Community and the NIGC's Minimum Internal Control Standards (MICS);
13. Promulgate and issue regulations on the levying of fees and/or taxes associated with gaming license applications;

14. Promulgate and issue regulations on the levying of fines and/or suspension or revocation of gaming licenses for violations of the gaming ordinance, or any other Tribal, Federal, or State, if applicable, gaming regulations; and
  15. Perform such other duties that the Tribal Gaming Commission deems appropriate for the proper regulation of the Tribal gaming operation.
- E. The Tribal Gaming Commission shall ensure that all records and information obtained as a result of all employee background investigations shall remain confidential and shall not be disclosed to persons who are not directly involved in the licensing process. Under no circumstances shall information obtained during the course of an employee background investigation be disclosed to members of management, human resource personnel or others employed by the tribal gaming operation. This Section shall not apply to requests for such information or records from any Tribal, Federal or State law enforcement or regulatory agency, or for the use of such information or records by the Tribal Gaming Commission and its staff in the performance of their official duties.
- F. A majority of the Tribal Gaming Commission shall constitute a quorum. The concurrence of a majority of the members appointed to the Tribal Gaming Commission shall be required for any final determination by the Tribal Gaming Commission. The Tribal Gaming Commission may act in its official capacity even if there are vacancies on the Commission.
- G. Tribal Gaming Commissioners shall be compensated at a level determined by the Community Council. This compensation shall be included in the gaming operation's annual estimated budget, and shall be approved by the Community Council. Tribal Gaming Commissioner compensation shall not be based on a percentage of gaming revenue to ensure the Tribal Gaming Commission is not improperly influenced.
- H. The Tribal Gaming Commission shall keep a written record of all its meetings.

## **VII. Ethics.**

- A. The Community recognizes that the duties of the Tribal Gaming Commission include making important decisions on highly sensitive issues. As such, the Community has determined that the Gaming Commission shall be held to extremely high ethical standards. Prior to taking their positions, Tribal Gaming Commissioners shall agree to be bound by the following principles:
1. Tribal Gaming Commissioners shall not hold financial interests that conflict with the conscientious performance of their duties as managers and regulators.
  2. Tribal Gaming Commissioners shall not engage in financial transactions using nonpublic information or allow the improper use of such information by others on their behalf to further any private interest.

3. Tribal Gaming Commissioners shall not solicit or accept any gift or other item of monetary value, including complimentary items (see Section VIII, below), from any person or entity seeking official action or inaction from, doing business with, or conducting activities regulated by the member's organization, or whose interests may be substantially affected by the performance or nonperformance of the Members' duties.
4. Tribal Gaming Commissioners shall make no unauthorized commitments or promises of any kind purporting to bind the Community.
5. Tribal Gaming Commissioners shall not use their positions for private gain.
6. Tribal Gaming Commissioners shall act impartially, in accordance with all relevant Tribal, Federal, and State laws (where applicable), and shall not give preferential treatment to any private organization or individual, including to any persons related to Tribal Gaming Commissioners.
7. Tribal Gaming Commissioners shall ensure that Tribal property and gaming assets shall be properly segregated and safeguarded, and that such property and assets shall not be used for unauthorized activities.
8. Tribal Gaming Commissioners shall not engage in outside employment or activities, including seeking or negotiating for future employment, which conflict with their official duties and responsibilities.
9. Tribal Gaming Commissioners shall disclose waste, fraud, abuse, and corruption to appropriate authorities.
10. Tribal Gaming Commissioners shall endeavor to avoid any actions creating the appearance that they are violating the law or the ethical standards listed herein.
11. In the event that a Tribal Gaming Commissioner initiates a proceeding before the Commission, or is otherwise the subject of a proceeding before the Commission, that Commissioner shall recuse himself or herself, and shall take no part in the Commission's consideration of the issues in that proceeding.

### **VIII. Complimentary Items.**

- A. The use of complimentary items shall be governed by regulations established by the Tribal Gaming Commission, which shall be in accord with the NIGC's Minimum Internal Control Standards, found at 25 C.F.R. § 542.17.
- B. No Key Employee, Primary Management Official, Community Council member, or Tribal Gaming Commission or any person directly related to or sharing a residence with those persons, shall be authorized to receive complimentary items.

C. Complimentary Items shall be included in the annual budget for the gaming operation, with maximum limits specified, and shall be subject to approval by the Community Council.

#### **IX. Audit.**

A. The Community shall cause an annual outside independent audit of gaming operations to be conducted, and shall submit the resulting audit reports to the National Indian Gaming Commission.

B. All gaming related contracts that result in the purchase of supplies, services, or concessions in excess of \$25,000.00 annually, except contracts for professional legal and accounting services shall be specifically included within the scope of the audit that is described in subsection A above.

#### **X. Environment and Public Health and Safety.**

Gaming facilities shall be constructed, maintained and operated in a manner that adequately protects the environment and the public health and safety. [25 C.F.R. § 522.4(b)(7)]

#### **XI. Dispute Resolution.**

Patrons who have complaints against the gaming establishment, a gaming employee, or a management contractor shall have as their sole remedy the right to file a petition for relief with the Tribal Gaming Commission. Complaints shall be submitted in writing, and at the discretion of the Commission, the petitioner may be allowed to present evidence. The Tribal Gaming Commission shall hold a hearing within thirty (30) days of receipt of petitioner's complaint. The Tribal Commission shall render a decision in a timely fashion and all such decisions will be final when issued.

#### **XII. Licenses for Key Employees and Primary Management Officials.**

A. Scope. The Tribe shall ensure that the policies and procedures set out in this section are implemented with respect to key employees and primary management officials employed at any gaming enterprise operated on Indian lands.

B. Application Forms.

1. The following notice shall be placed on the application form for a key employee or a primary management official:

In compliance with the Privacy Act of 1974, the following information is provided:

Solicitation of the information on this form is authorized by 25 U.S.C. 2701 et seq. The purpose of the requested information is to determine the eligibility of individuals to be granted a gaming license. The information will be used by the Tribe and the National Indian Gaming Commission members and staff who have need for the information in the performance of their official duties. The

information may be disclosed to appropriate Federal, Tribal, State, local, or foreign law enforcement and regulatory agencies when relevant to civil, criminal or regulatory investigations or prosecutions or when necessary pursuant to a requirement by a Tribe or the National Indian Gaming Commission in connection with the issuance or revocation of a gaming license, or investigation of activities while associated with a Tribe or a gaming operation. Failure to consent to the disclosures indicated in this notice will result in a Tribe being unable to license you for a primary management official or key employee position. The disclosure of your Social Security Number (SSN) is voluntary. However, failure to supply a SSN may result in errors in processing your application.

The following additional notice shall be placed on the application form for a key employee or a primary official: “A false statement on any part of your application may be grounds for denying a license or the suspension or revocation of a license. Also, you may be punished by fine or imprisonment. (U.S. Code, Title 18, section 1001).

The Commission shall notify in writing existing key employees and primary management officials that they shall either:

- i. Complete a new application form that contains a Privacy Act notice; or
- ii. Sign a statement that contains the the Privacy Act notice and consent to the routine uses described in that notice. .

The Tribe may charge a license fee, to be set by the Tribal Gaming Commission to cover its expenses in investigating and licensing Key Employees and Primary Management Officials of the gaming operation.

#### C. Background Investigations

1. The Tribal Gaming Commission is responsible for conducting background investigations, collecting fingerprints, and making eligibility determinations.
2. According to the terms of a Memorandum of Understanding currently in effect, the National Indian Gaming Commission shall run the fingerprints, generate reports and provide the results to the Tribal Gaming Commission.
3. The Tribal Gaming Commission shall request from each primary management official and from each key employee all of the following information:
  - i. Full name, other names used (oral or written), social security number(s), birth date, place of birth, citizenship, gender, and languages (spoken or written);
  - ii. Currently and for the previous five (5) years: business and employment positions held, ownership interests in those businesses, business and residence addresses, and drivers' license numbers;

- iii. The names and current addresses of at least three personal references, including one personal reference that was acquainted with the applicant during each period of residence listed on the application;
  - iv. Current business and residence telephone numbers;
  - v. A description of any existing and previous business relationships with Indian Tribes, including ownership interests in those businesses;
  - vi. A description of any existing and previous business relationships with the gaming industry generally, including ownership interest in those businesses;
  - vii. The name and address of any licensing or regulatory agency with which the person has filed an application for a license or permit related to gaming, whether or not such license or permit was granted;
  - viii. For each felony for which there was an ongoing prosecution or a conviction, the charge, the name and address of the court involved and the date and disposition, if any;
  - ix. For each misdemeanor conviction or ongoing misdemeanor prosecution (excluding minor traffic violations) within ten (10) years of the date of the application, the name and address of the court involved and the date and disposition;
  - x. For each criminal charge (excluding minor traffic charges), whether or not there is a conviction, if such criminal charge is within ten (10) years of the date of the application and is not otherwise listed pursuant to paragraph (a)(viii) or (a)(ix) of this section, the criminal charge, the name and address of the court involved and the date and disposition;
  - xi. The name and address of any licensing or regulatory agency with which the person has filed an application for an occupational license or permit, whether or not such license or permit was granted;
  - xii. A photograph taken within the last year; and
  - xiii. Any other information the Community deems relevant.
4. Each applicant for a Key Employee or Primary Management official shall be required to have fingerprints taken by the Tribal Gaming Commission as part of the license application procedure.
  5. As part of its review procedure, the Tribal Gaming Commission or its authorized Agent shall conduct a background investigation on each applicant sufficient to allow the Tribal Gaming Commission to make an eligibility determination under subsection D below. The investigator shall:
    - i. Verify the applicant's identity through items such as a social security card, driver's license, birth certificate or passport;

- ii. Contact each personal and business reference provided in the license application, when possible;
  - iii. Obtain a personal credit check;
  - iv. Conduct a civil history check;
  - v. Conduct a criminal history check via the submission of the applicant's fingerprints to the NIGC which shall include a criminal check of the history and information maintained by the Federal Bureau of Investigation, and further obtain information from the appropriate court regarding past felony and/or misdemeanor convictions and criminal charges;
  - vi. Inquire into any previous or existing business relationships with the gaming industry and Indian tribes by contacting the entities or tribes;
  - vii. Verify the applicant's history and status with any licensing agency by contacting the agency; and
  - viii. Take other appropriate steps to verify the accuracy of the information, focusing on problem areas noted.
- 6. The investigator shall create an investigative report noting the steps taken, information gained, potential problems areas, and disqualifying information.
  - 7. The Tribal Gaming Commission and its investigator shall promise to keep confidential the identity of each person interviewed in the course of the investigation, other than disclosure as required under Federal, Tribal, or State law.

D. Eligibility Determination.

The Tribal Gaming Commission shall review a person's prior activities, criminal record, if any, reputation, habits and associations to make a finding concerning the eligibility of a key employee or primary management official for employment in a gaming operation. If the Tribal Gaming Commission determines that employment of the person poses a threat to the public interest or to the effective regulation of gaming, or creates or enhances dangers of unsuitable, unfair, or illegal practices and methods and activities in the conduct of gaming a tribal gaming operation shall not employ that person in a key employee or primary management official position.

E. Procedures for Forwarding Applications and Reports for Key Employees and Primary Management Officials to the National Indian Gaming Commission.

- 1. When a key employee or primary management official is employed to work at a gaming operation authorized by this ordinance, the Tribal Gaming Commission shall forward to the National Indian Gaming Commission a completed application

for employment and conduct the background investigation and make the determination referred to in subsection D of this section.

2. The gaming operation shall not employ as a key employee or primary management official a person who does not have a license after ninety (90) days.

F. Report to the National Indian Gaming Commission.

1. The Tribal Gaming Commission shall prepare and forward a report on each background investigation to the National Indian Gaming Commission. An investigative report shall include all of the following:

- i. Steps taken in conducting a background investigation;
- ii. Results obtained;
- iii. Conclusions reached; and
- iv. The bases for those conclusions.

2. The Tribal Gaming Commission shall forward the completed investigative report to the National Indian Gaming Commission within sixty (60) days after an employee begins work or within sixty (60) days of the approval of this ordinance by the Chairman of the National Indian Gaming Commission.

3. The Tribal Gaming Commission shall submit, with the investigative report, a copy of the eligibility determination, unless the NIGC shall have advised the Community that the submission of the eligibility determination is not necessary. This determination shall include a statement describing how the information submitted by the applicant was verified; a statement of results following an inquiry into the applicant's prior activities, criminal record, if any, and reputation, habits and associations; a Statement showing the results of interviews of a sufficient number of knowledgeable people (such as former employers, personal references, and others referred to by the applicant) in order to provide a basis for the Community to make a finding concerning the eligibility for employment in a gaming operation; and a Statement documenting the disposition of all potential problem areas noted and disqualifying information obtained. If a license is not issued to an applicant, the Tribal Gaming Commission:

- i. Shall notify the NIGC; and
- ii. Shall forward copies of its eligibility determination and investigative report (if any) to the NIGC for inclusion in the Indian Gaming Individuals Records System.

4. With respect to all employees, and in particular Key Employees and primary management officials, the Tribal Gaming Commission shall retain applications for employment and reports (if any) of background investigations for inspection by



the Chairman of the NIGC or his or her designee for no less than three (3) years from the date of termination of employment.

G. Granting a Gaming License.

1. If within a thirty (30) day period after the National Indian Gaming Commission receives a report, the National Indian Gaming Commission notifies the Community that it has no objection to the issuance of a license pursuant to a license application filed by a key employee or a primary management official for whom the Community has provided an application and investigative report to the National Indian Gaming Commission, the Tribal Gaming Commission, acting for the Community, may issue a license to such applicant.
2. The Tribal Gaming Commission shall respond to a request for additional information from the Chairman of the National Indian Gaming Commission concerning a key employee or a primary management official who is the subject to a report. Such a request shall suspend the thirty (30) day period under paragraph G(a) of this section until the Chairman of the National Indian Gaming Commission receives the additional information.
3. If, within the thirty (30) day period described above, the National Indian Gaming Commission provides the Community with a Statement itemizing objections to the issuance of a license to a key employee or a primary management official for whom the Tribal Gaming Commission has provided an application and investigative report to the National Indian Gaming Commission the Community shall reconsider the application taking into account the objections itemized by the National Indian Gaming Commission. The Community shall make the final decision whether to issue a license to the applicant

H. License Suspension.

1. If, after the issuance of a gaming license, the Tribal Gaming Commission receives from the National Indian Gaming Commission reliable information indicating that a key employee or a primary management official is not eligible for employment, the Tribal Gaming Commission shall suspend such license and shall notify in writing the licensee of the suspension and the proposed revocation.
2. The Tribal Gaming Commission shall notify the licensee of a time and a place for a hearing on the proposed revocation of a license.
3. After revocation hearing, the Tribal Gaming Commission shall decide to revoke or to reinstate a gaming license. The Commission shall notify the NIGC of its decision.

I. Board of Review for Disputes.

1. The Community has determined that, in order to adhere to this Ordinance and all gaming regulations there shall be established a Tribal Gaming Board of Review

(Board of Review). The Board of Review shall serve as the final review body for employee disputes. Employee disputes shall include disputes with management, terminations, fines or other internal employee disputes, not to include actions taken by the Commission.

2. The Board of Review shall consist of five (5) members. The membership shall be comprised of two members of the Tribal Gaming Commission, one primary management official or key employee, one enrolled Tribal member not employed by the gaming operation, and one employee of the gaming operation. The members shall be elected from their representative group and shall serve staggered terms. The two Tribal members shall serve three-year terms. The primary management official or key employee shall serve a two-year term. The members from the Tribal Gaming Commission shall serve one-year terms. The Community Council shall determine the level of compensation for the Board of Review. However, compensation shall never be tied to tribal gaming revenues.
3. The Board Review members shall elect a Chairperson from among them, whose duty it shall be to preside over all meetings and hearings. In addition, the members shall elect a Vice-Chair who shall be the custodian of any evidence submitted, and who shall preside in the Chairperson's absence. The Board of Review shall meet as needed and shall keep official records of the meetings. No later than three (3) working days following a hearing on employer disputes, the Board of Review shall issue its findings. Findings of the Board shall be final when issued.
4. No Board of Review member shall be removed prior to the end of their term without cause. Removal shall be effectuated by a majority vote of the entire Board of Review, and shall be a final decision. Board of Review members shall not review any decisions affecting himself/herself or any person directly related to him or her.

### **XIII. Licenses for Vendors.**

- A. Vendors of services or supplies with a value of \$25,000 or more annually must have a vendor license issued by the Tribal Gaming Commission in order to transact business with the Tribal gaming operation. Contracts for professional legal and accounting services are excluded from this section.
- B. In order to obtain a vendor license, a business must complete a vendor application and submit to background checks of itself and its principals. Principals of a business include its officers, directors, management, owners, partners, non-institutional stockholders that either own 10% or more of the stock or are the ten (10) largest stockholders, and the on-site supervisor or manager under the agreement with the Community, if applicable.
- C. Applications for vendor licenses must include the following:
  1. The name of the business, its business address, business phone, federal tax ID Number (or SSN if a sole proprietorship), its main office address if different

from business address, any other names that the applicant has done business under, and the type of service the applicant will provide;

2. A statement whether the applicant is a partnership, corporation, limited liability company, sole proprietorship, or other entity;
3. If the applicant is a corporation, the State of its incorporation, and the qualification to do business in the State of Minnesota if the business is not incorporated in Minnesota;
4. Its trade name, other names it ever has used, and the names of any wholly owned subsidiaries or other businesses owned by the vendor or its principals;
5. A general description of the business and its activities;
6. A statement whether the applicant will be investing in or loaning money to the gaming operation and, if so, how much;
7. A description of any existing and previous business relationships the applicant has or has had with the gaming industry generally, including ownership interests in those businesses;
8. A description of any existing and previous business relationships the applicant has or has had with Indian tribes, including ownership, financial, management interests in non-gaming activities;
9. The names, addresses, and phone numbers of three business references with whom the applicant had regularly done business for the last five years;
10. The name and address of any licensing or regulatory agency with which the applicant has filed an application for a license or permit related to gaming, whether or not such license or permit was granted;
11. If the applicant has ever had a license revoked for any reason, a statement of the circumstances involved;
12. A list of lawsuits in which the applicant has been a defendant, including the name and address of the court involved, and the date and disposition of the lawsuit, if any;
13. A list of the applicant's funding sources, together with a list of all of the applicant's liabilities of \$50,000 or more;
14. A list of the principals of the applicant, together with their social security numbers, addresses and telephone numbers, their titles, and the percentage of their ownership in the company; and
15. Any further information that the Tribal Gaming Commission deems relevant.

- B. The following notice shall be placed on the application form for a vendor and its principals: “Inclusion of false or misleading information on the vendor application may be grounds for denial or revocation of the Community's vendor license”.
- C. The Community may charge a license fee, to be established by the Tribal Gaming Commission, to cover its expenses in investigating and licensing vendors of the gaming operation.

**XIV. Minimum Internal Control Standards.**

The Community acknowledges its obligation to adopt and implement Minimum Internal Control Standards (MICS) for the operation of its Tribal gaming operation that are no less stringent than those found in the regulations of the NIGC at 25 C.F.R. Part 542. The Community's MICS shall be set forth in separate regulations to be reviewed and approved by the Community Council.

**XV. License Locations.**

The Tribal Gaming Commission shall issue a separate license to each place, facility, or location on Indian lands where gaming is conducted under this ordinance.

**XVII. Agent for Service of Process.**

The Community hereby designates the Community’s President as agent for service of process. The President may be contacted at: President of the Lower Sioux Indian Community, R.R. 1, Box 1, Morton MN 56270.

**XVII. Compliance with Federal Law.**

The Community will comply with all applicable federal law, including the Bank Secrecy Act, 31 U.S.C. §5311 et seq..

**XVII. Repeal.**

To the extent that they are inconsistent with this ordinance, all prior gaming ordinances are hereby repealed.

[Enacted November 11, 1993, Resolutions 17-93-94, 18-93-94.]

[Approved by NIGC November 19, 1993.]

[Revised February 11, 2000, Resolution 09-00.]

[Approved by NIGC April 18, 2000.]

[Revised March 16, 2006, Resolution 06-39.]

[Approved by NIGC March 28, 2006.]

[Revised May 6, 2008, Resolutions 08-51, 08-132.]

[Approved by NIGC October 7, 2008.]

[Revised , 2009, Resolution 09-430]

[Approved by NIGC, January 29, 1010]

[Revised April 28, 2010, Resolution 10-88, and July 8, 2010, Resolution 10-111]

[Approved by NIGC, August 3, 2010]