



JAN 29 2010

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

Dear President Prescott:

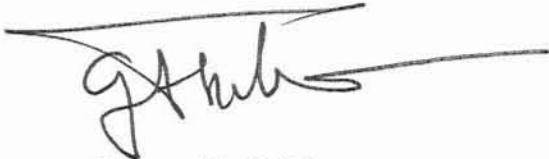
This letter is in response to your request for the National Indian Gaming Commission (NIGC) to review and approve an amendment to the Lower Sioux Indian Community (Community) Gaming Ordinance (Ordinance) enacted via Resolution No. 09-430. The ordinance is consistent with the requirements of the Indian Gaming Regulatory Act (IGRA) and NIGC's regulations and is hereby approved.

I see, however, that this amendment eliminates the Board of Directors for the gaming operation and replaces all members of the Tribal Gaming Commission with the Community Council. I understand from conversations you have had with the Office of General Counsel that this is proposed as a cost-saving measure and is projected to save the Community hundreds of thousands of dollars over the coming year. While I appreciate the practicality of the amendment, I am concerned that it may have the unintended effect of creating conflicts of interest for members of the Community Council and eroding the independence of the Tribal Gaming Commission.

Under the amendment, the Community Council is responsible for both the management of the Jackpot Junction casino and its regulation. Fiscal and regulatory obligations sometimes conflict directly, and I question whether the two roles can be wholly fulfilled by the same individuals. I have attached NIGC Bulletin 99-3 for further discussion of this issue. I hope that the Community will consider putting safeguards in place to protect the independence of its gaming commission and the NIGC offers any assistance you may require in this endeavor.

Thank you for your submission. If you have any questions, please contact  
Staff Attorney Jennifer Ward at 202-632-7003.

Sincerely,

A handwritten signature in black ink, appearing to read "G. Skibine", with a long horizontal line extending to the right.

George T. Skibine  
Acting Chairman



## Lower Sioux Indian Community

P.O. Box 308 • 39527 Res. Hwy. 1

Morton, Minnesota 56270

*Cansayapi Otunwe*

### LOWER SIOUX INDIAN COMMUNITY RESOLUTION NO. 09- 430

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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, for most of the years during which the Lower Sioux Community has operated gaming enterprises under the Indian Gaming Regulatory Act of 1988, the Lower Sioux Community Council served as the Community's Gaming Commission; but in the recent past the Community has experimented with a more elaborate and far more expensive system under which the authority to regulate gaming was given to a separate governmental entity and business affairs of the gaming enterprise were overseen by a separate Board of Directors; and
- WHEREAS, the Community Council finds that the use of a separate gaming regulatory entity and a Board of Directors has proved expensive and cumbersome, and has yielded no discernible benefit to the Community as against the system that the Community historically has employed; and

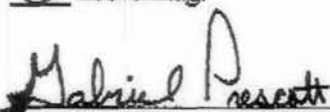
WHEREAS, the Community Council wishes to reassume the role of the Community's Gaming Commission, and to abolish the Board of Directors that Community's present Gaming Ordinance contemplates, but also wishes to retain all of the safeguards and requirements that are mandated by the Indian Gaming Regulatory Act of 1988;

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, in which the Community Council reassumes the role of the Community's Gaming Commission and the entity formerly known as the Board of Directors is abolished; and

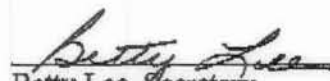
AND BE IT FURTHER RESOLVED, that the Lower Sioux Community Council requests that the National Indian Gaming Commission approve these amendments.

#### CERTIFICATION

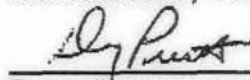
I certify that Resolution No. 09-~~430~~ was duly adopted by the Community Council of the Lower Sioux Indian Community at a duly called meeting held on the 17 day of December, 2009, a quorum being present, by a vote of 5 in favor, 0 opposed, and 0 abstaining.

  
Gabe Prescott, President

  
Brenda Pendleton, Vice-President

  
Betty Lee, Secretary

  
Iola Hernandez, Treasurer

  
Denny Prescott, Assistant Secretary-Treasurer



## Table of Contents

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I. Purpose

II. Definitions

III. Gaming Authorized

IV. Ownership of Gaming

V. Use of Gaming Revenue

~~VI. Board of Directors~~

VII. Gaming Commission

VIII. Ethics

~~VIII~~IX. Complimentary Items

IX. Audit

XI. Environment and Public Health and Safety

XII. Dispute Resolution

XIII. Licenses for Key Employees and Primary Management Officials

A. Scope

B. Application Forms

C. Background Investigations

D. Eligibility Determination

E. Procedures for Forwarding Applications and Reports for Key  
Employees and Primary Management Officials to the NIGC

F. Report to the NIGC

G. Granting a Gaming License

H. License Suspension

I. Board of Review for Disputes

XIII~~V~~. Licenses for Vendors

XI~~V~~. Minimum Internal Control Standards

XVI. License Locations

XVII. Agent for Service of Process

XVIII. Compliance with Federal Law

XVIII. Repeal

#### LOWER SIOUX INDIAN COMMUNITY GAMING ORDINANCE

##### 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. ~~"Board of Directors" means the Tribal Gaming Board of Directors, who shall serve as primary management officials who shall work closely with the General Manager in the development of policies governing the management aspects of the Tribally owned gaming operation(s).~~

AB. "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.

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

and means

— a, 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

b. 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

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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.

c. 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.

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

DE. "Commission" means the Lower Sioux Community Council acting as the Community's Tribal Gaming Commission, established to perform performing regulatory oversight and monitoring to monitor compliance with Tribal, federal, and applicable State regulations.

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

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

~~H.~~ GH. "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.

~~I.~~ L. "Directly related to" means a spouse, child, parent, grandparent, or grandchild.

~~J.~~ JL. "Director" means a Member of the Tribal Gaming Board of Directors.

~~K.~~ KK. "Indian lands" means

- a. all lands within the limits of any Indian reservation; and
- b. 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.

~~LL.~~ LL. "Indian Tribe" means the Lower Sioux Indian Community.

~~MM.~~ MM. "Key Employee" means

- a. A person who performs one or more of the following functions:
  - i. Bingo caller;
  - ii. Counting room supervisor;

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- 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;

b. If not otherwise included, any other person whose total cash compensation is in excess of \$50,000 per year; or

c. If not otherwise included, the four most highly compensated persons in the gaming operation.

**NN.** "Net Revenues" means gross gaming revenues of an Indian gaming operation less

a. Amounts paid out as, or paid for, prizes; and

b. Total gaming-related operating expenses, excluding management fees.

QQ. "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.

PP. "Primary Management Official" means

a. The person(s) having management responsibility for a management contract;

b. Any person who has authority:

i. To hire and fire employees; or

ii. To set up working policy for the gaming operation; or

c. 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:

- a. to fund tribal government operations and programs;
- b. to provide for the general welfare of the Tribe and its members;
- c. to promote tribal economic development;
- d. to donate to charitable organizations; or
- e. 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. Board of Directors~~

~~A. In addition to the General Manager for the facility, there shall established a Tribal Gaming Board of Directors which shall serve in policy oversight role over the non-regulatory operations of the gaming operation. In the event the Community enters into a management contract approved by the NIGC, the Board may delegate some or all duties to the approved management contractor.~~

~~B. The Board of Directors may consist of the Tribal Council with terms coinciding with the terms of his or her office. The Board of Directors shall consist of no less than three (3) members and no more than five (5). Any member of the Board of Directors that is not a Tribal Council Member shall serve at the leisure of the Tribal Council.~~

~~C. The Board of Directors may act in its official capacity even if there are vacancies on the Board of Directors.~~

~~D. The Board of Directors shall perform the following duties:~~

~~a. Approve non-regulatory policies for all departments of the gaming facility, whether managed by a tribal employee or by an approved management contractor;~~

~~d. Inspect and examine on a periodic basis all books, records and papers of the gaming facility and any other department within the gaming facility;~~

~~e. Approve hours of operation for the gaming facility;~~

~~f. Approve wager limits, if not regulated by the Tribal / State Compact or other applicable gaming regulation;~~

~~g. Approve marketing plans;~~

~~h. Approve policies regarding interviews, selection and training of the gaming operation as well as other employees paid by the gaming operation;~~

~~i. Approve employee policies, rate of pay and hours of work;~~

~~j. Approve an annual operating budget. This is subject to Community Council approval if no Community Council Members are serving as the majority of the Board of Directors;~~

~~k. Review bids concerning the gaming operation and its departments; and~~

~~l. Any other duties necessary to monitor and oversee the policies of the gaming operation;~~

~~E. Removal~~

~~a. A member of the Board of Directors may be removed for the following:~~

~~(i) neglect of duty;~~

~~(ii) misconduct;~~

~~(iii) malfeasance;~~

~~(iv) any other act that would render the member unqualified as a~~

~~\_\_\_\_\_ member of the Board of Directors.~~

~~b. If a member of the Board of Directors is removed for reason and he or she  
\_\_\_\_\_ is a Tribal Council Member, that position may remain vacant, provided  
\_\_\_\_\_ there is at least 3 members, or it may be filled by any other person.  
\_\_\_\_\_ Removal from the Board of Directors shall not effect their position as an  
\_\_\_\_\_ elected Tribal Council Member.~~

~~F. Members of the Board of Directors shall be compensated such compensation shall  
be determined by the Community Council.~~

#### VII. 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 ~~consist of the Community Council.~~  
~~at least three (3) but not more than five (5) members. There shall be  
among them a Chairperson, Vice Chairperson, and at least one additional  
Commissioner.~~

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.

The Commission

~~shall be and act independently and autonomously from the Community in all matters within its purview. No prior or subsequent review by the Community Council of any actions of the Commission shall be required or permitted except as otherwise explicitly provided in this Ordinance.~~ To avoid potential conflicts of interest between the operation and regulation of the gaming facility, the Community hereby finds that, at a minimum:

- ~~a. No member of the Community Council or Tribal Gaming Board of Directors may serve on the Gaming Commission;~~
  - ~~b. No member directly related to or living with any Community Council member or Tribal Gaming Board of Directors member may serve on the Gaming Commission;~~
  - ~~ag. Members of the Gaming Commission are prohibited from gambling in the facility; and~~
  - ~~bd. Members of the Gaming Commission are prohibited from accepting complimentary items from the gaming operation.~~
- D. ~~Tribal Gaming Commissioner positions shall be filled through appointment~~

~~by the Community Council.~~

~~E. Nominees for positions of Tribal Gaming Commissioner must satisfy suitability standards set forth for key employees and primary management officials, found in Section XIII of this Ordinance. Such background investigations shall be performed under the direction of the Community Council or designated official.~~

~~D.F.~~ The Tribal Gaming Commission shall:

- a. Conduct or cause background investigations to be conducted on, at a minimum, primary management officials and key employees;
- b. Review and approve all investigative work conducted;
- c. Report results of background investigations to the NIGC;
- d. Obtain and process fingerprints, or designate a law enforcement agency to obtain and process fingerprints;
- e. Make suitability determinations, which shall be signed by the Chairperson of the Tribal Gaming Commission;
- f. Issue gaming licenses to management officials and employees of the operation, consistent with the suitability determination;
- g. Inspect, examine and monitor all gaming activities, and have immediate access to review, inspect, examine, photocopy and audit all records of the gaming establishment;

- h. Ensure compliance with all Tribal, State, and Federal laws, rules, and regulations regarding Indian gaming;
- i. Investigate any suspicion of wrongdoing associated with any gaming activities;
- j. Hold hearings on patron and/or employee complaints, in compliance with procedures established in the gaming ordinance and other Tribal gaming regulations;
- k. 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;
- l. Promulgate and issue regulations necessary to comply with the Community and the NIGC's Minimum Internal Control Standards (MICS);
- l. Promulgate and issue regulations on the levying of fees and/or taxes associated with gaming license applications;
- m. 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
- n. Perform such other duties that the Tribal Gaming Commission deems appropriate for

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~~a. the~~

~~proper regulation of the Tribal gaming operation.~~

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~~EE.~~ 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 ~~does~~ 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.

~~H. Terms of Office for Tribal Gaming Commissioners shall be as follows: the Chair shall~~

~~serve an initial term of one year, with subsequent Chairs serving three-year terms. The~~

~~Vice Chair and Commissioner(s) shall serve an initial term of two years, with subsequent~~

~~Vice Chairs and Commissioners serving three-year terms.~~

~~I. The following persons are not eligible to serve as Tribal Gaming Commissioners:~~

~~Community Council members, while serving as such; employees of the gaming operation, while serving as such; gaming contractors (including any principal of a management or other contracting company); persons directly related to or sharing a residence with any of the above; persons ineligible to be key employees or primary management officials. Tribal members previously convicted of a felony, of embezzlement, of theft, or of any other money related crime or honesty-related crime (such as fraud) will only be allowed if the Community Council specifically finds a significant amount of time has passed and that the person's character has been reformed. The Community Council shall require a criminal history check with appropriate law enforcement agencies and shall review this criminal history report and make an appropriate suitability determination before appointing an individual in a position as a Tribal Gaming Commissioner.~~

~~J. The independence of the Tribal Gaming Commission is essential to a well-regulated gaming operation. For that reason, Commissioners may only be removed from office by the Community Council prior to the expiration of their respective terms for neglect of duty, misconduct, malfeasance, or other acts that would render a Commissioner unqualified for the position. Any allegations of neglect of duty, misconduct, malfeasance, or other acts that would render the Commissioner unqualified for the position must be substantiated by a preponderance of the evidence. Commissioners will be given an opportunity to provide evidence rebutting the grounds for their proposed removal before the removal is considered. A vote of the Community Council on the validity of the removal shall be final and not subject to further appeal. A wrongful removal shall entitle the affected Commissioner to compensation for expenses incurred in an appeal and any pay withheld.~~

~~FK. 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.

L. ~~\_\_\_\_\_~~ 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.

M. The Tribal Gaming Commission shall keep a written record of all its meetings.

#### VIII. Ethics

A. The Community recognizes that the duties of the ~~Gaming Board of Directors and the~~ Tribal Gaming Commission include making important decisions on highly sensitive issues. As such, the Community has determined that the ~~Board of Directors and the~~ Gaming Commission shall be held to extremely high ethical standards. Prior to taking their positions, Tribal Gaming Commissioners ~~on the Board and the Commission (Members), the Members~~ shall agree to be bound by the following principles:

a. Tribal Gaming Commissioners Members shall not hold financial interests that conflict with the

—conscientious

—performance of their duties as managers and regulators.

b. Tribal Gaming Commissioners Members 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.

c. Tribal Gaming Commissioners Members shall not solicit or accept any gift or other item of

—monetary value,

—including complimentary items (see Section VIIIEX, 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.

d. Tribal Gaming Commissioners Members shall make no unauthorized commitments or promises

—of any kind

—purporting to bind the Community.

e. Tribal Gaming Commissioners Members shall not use their positions for private gain.

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f. Tribal Gaming Commissioners Members shall act impartially, in accordance with all relevant

~~f.~~ ~~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 Members.

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g. Tribal Gaming Commissioners Members shall ensure that Tribal property and gaming assets

~~g.~~ shall be properly

~~segregated~~ and safeguarded, and that such property and assets shall not be used

~~for~~ unauthorized activities.

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h. Tribal Gaming Commissioners Members shall not engage in outside employment or activities,

~~h.~~ including seeking or

~~negotiating~~ for future employment, which conflict with their official duties and

~~responsibilities~~.

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i. Tribal Gaming Commissioners Members shall disclose waste, fraud, abuse, and corruption to

~~i.~~ appropriate

~~authorities~~.

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i. ~~Tribal Gaming Commissioners Members~~ shall endeavor to avoid any actions creating the

j. appearance that they are

violating the law or the ethical standards listed herein.

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#### VIIIX. 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,

~~member of the Gaming Board of Directors~~ or Tribal Gaming Commission or any person directly related to or sharing a residence with ~~those~~ the 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.

#### XI. 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)]

#### XII. 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.

#### XIII. 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

- a. 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 employed in a gaming operation. 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 hiring or firing of an employee, 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 hire you in 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.

- e-a. 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

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P.027/043

may be grounds for not hiring you, or for firing you after you begin work. Also, you may be punished by fine or imprisonment. (U.S. Code, Title18, section 1001).

d.b. The Commission shall notify in writing existing key employees and primary management officials who have not completed an application containing the notices set forth above that they shall either:

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

e.c. 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

- a. The Tribal Gaming Commission is responsible for conducting background investigations, collecting fingerprints, and making eligibility determinations.
- b. 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.

c. 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.

d. 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.

e. 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.

f. The investigator shall create an investigative report noting the steps taken, information gained, potential problems areas, and disqualifying information.

g. 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.

a. 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

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referred to in

—subsection D of this section.

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b. 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.

a. 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.

b. The Tribal Gaming Commission shall forward the completed investigative report to

b.—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.

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c. ~~e.~~ 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.

e.d. If a license is not issued to an applicant, the Tribal Gaming Commission:

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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.

e. 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

a. 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.

b. 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

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information.

c. 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

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#### H. License Suspension

a. 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.

b. The Tribal Gaming Commission shall notify the licensee of a time and a place for a hearing on the proposed revocation of a license.

c. 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

a. 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.

b.d. The Board of Review shall consist of five (5) members. The membership shall be comprised of two members ~~one member~~ of the Tribal Gaming Commission, ~~one member from~~

~~the Community Council~~, 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 and the Community

~~Council 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~~.

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c. 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.

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d. 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.V. 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 ~~from~~ 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 ~~the~~ 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:



a. ~~The Name of the business, its business address, business phone, federal tax ID~~  
 Number (or SSN if a sole proprietorship), ~~its ma-in 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;~~

b. ~~A statement wWhether the applicant is a partnership, corporation, limited liability~~  
 company,

b. sole proprietorship, or other entity;

c. If the applicant is a corporation, the ~~Sstate of its incorporation, and the~~  
 qualification to do business in the ~~State of~~ State of Minnesota if the ~~business~~  
 gaming

~~operation is not incorporated in~~  
 Minnesota in a different State than the State of incorporation;

Its ~~Trade name, other names it ever has used, and the names of any wholly~~  
 d. owned

subsidiaries or other businesses owned by the vendor or its principals;

e.d.A General description of the business and its activities;

f. ~~A statement wWhether the applicant will be investing in or loaning money to the~~  
 gaming

e. operation and, if so, how much;

f. A description of any existing and previous business relationships ~~the applicant has or~~

g. has had with the

gaming industry generally, including ownership interests in those

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businesses;

g. 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;

h. The names, addresses, and phone numbers of three business references with  
whom the applicant company had regularly done business for the last five years;

i. The name and address of any licensing or regulatory agency with which  
the applicant business has filed an application for a license or permit related to  
gaming, whether or not such license or permit was granted;

j. If the applicant business has ever had a license revoked for any reason, a statement of  
the  
circumstances involved;

k. A list of lawsuits in which the applicant business has been a defendant, including  
the

name and address of the court involved, and the date and disposition of the  
lawsuit, if

any;

l. A list of the applicant's business funding sources, together with a list of and any all  
of the applicant's

m. liabilities of \$50,000 or more;

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n.m. A list of the principals of the applicant, together with business, their social security numbers,

addresses and telephone numbers, their titles, and the percentage of their ownership in the company; and

o.n. Any further information that the Tribal Gaming Commission Community 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 set-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 out-in separate regulations to be reviewed and approved by the Community Council.

#### XVI. 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**

who may be contacted at:

President of the

-----Lower Sioux Indian Community

R.R. 1, Box 1 P.O. Box 308

Morton MN 56270

**XVIII. 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.

**XVIII. 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 \_\_\_\_\_]

[Approved by NIGC \_\_\_\_\_]