



September 27, 2013

By First Class Mail

Mr. Kurt BlueDog, General Counsel
Shakopee Mdewakanton Sioux Community
Southgate Office Plaza, Suite 500
5001 American Boulevard West
Minneapolis, MN 55437

Re: Shakopee Mdewakanton Sioux Community Amended and Restated Gaming Ordinance

Dear Mr. BlueDog:

This letter responds to your request on behalf of the Shakopee Mdewakanton Sioux Community (Community) for the National Indian Gaming Commission Chairwoman to review and approve the Community's amended and restated gaming ordinance, as adopted by Special General Council Meeting Resolution No. 09-10-13-001-SGCR (September 10, 2013).

The amendments bring the ordinance into compliance with NIGC regulations that have been updated in recent years. Additionally, the amendments incorporate by reference and relocate several detailed background and licensing requirements to the Community's gaming regulations, allowing for more efficient updates in the event NIGC revises its regulations in the future.

Thank you for bringing the amended ordinance to our attention and for providing us with a copy. The amended ordinance is approved as it is consistent with the requirements of the Indian Gaming Regulatory Act and the NIGC's regulations. If you have any questions, please feel free to contact Staff Attorney Jennifer Ward at (202) 632-7003.

Sincerely,

A handwritten signature in blue ink, appearing to read "Tracie L. Stevens".

Tracie L. Stevens
Chairwoman



Shakopee Mdewakanton Sioux Community

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OFFICERS

Charlie Vig
Chairman

Keith B. Anderson
Vice-Chairman

Lori K. Watso
Secretary/Treasurer

SPECIAL GENERAL COUNCIL MEETING RESOLUTION NO. 09-10-13-001-SGCR

AMENDMENTS TO THE SHAKOPEE MDEWAKANTON SIOUX COMMUNITY GAMING ORDINANCE

WHEREAS, the Shakopee Mdewakanton Sioux Community is a sovereign Indian Tribe, federally recognized and organized under the provisions of the Indian Reorganization Act of 1934, and is governed under the terms of the Constitution approved by the Secretary of the Interior on November 28, 1969, as amended; and

WHEREAS, pursuant to Article III of the Constitution, the General Council of the Shakopee Mdewakanton Sioux Community is the governing body of the Community; and

WHEREAS, Article V, § 1(h) of the Constitution vests the General Council with the power to promulgate and enforce ordinances which are intended to safeguard and promote the peace, safety, morals and general welfare of the Community by regulating the use and disposition of property upon the reservation; and

WHEREAS, the Shakopee Mdewakanton Sioux Community Gaming Ordinance was approved by the General Council by General Council Resolution No. 03-31-93-001 and ratified by General Council Resolution No. 04-19-93-001 as required by the Indian Gaming Regulatory Act of 1988; and

WHEREAS, since the approval of the Gaming Ordinance, the National Indian Gaming Commission has enacted numerous regulations that clarify interpretation of the Indian Gaming Regulatory Act of 1988; and

WHEREAS, the Shakopee Mdewakanton Sioux Community Gaming Commission recommends that the Gaming Ordinance be amended so that it complies with current applicable federal regulations and to also make technical changes that correct minor inaccuracies; and

WHEREAS, the Business Council has determined it is in the Community's best interests to amend the Gaming Ordinance so that it is updated to comply with current federal regulations and further amended with appropriate technical changes; and

WHEREAS, in preparing the proposed amendments the Gaming Commission has consulted with staff at the National Indian Gaming Commission.

NOW THEREFORE BE IT RESOLVED, that the General Council approves and adopts the attached amendments to the Gaming Ordinance recommended by the Gaming Commission and Business Council entitled Amended and Restated Gaming Ordinance.

BE IT FURTHER RESOLVED, that such amendments are compliant with the Gaming Ordinance, the Tribe's Constitution and all other related and applicable laws.


BE IT FURTHER RESOLVED, that the Business Council is hereby directed to submit the Amended and Restated Gaming Ordinance to the National Indian Gaming Commission for review and approval.

BE IT FURTHER RESOLVED, that the Business Council is authorized to negotiate and make additional changes to the Amended and Restated Gaming Ordinance as may be necessary for final approval by the National Indian Gaming Commission, and as may be necessary in order to remain consistent with applicable federal law and state law requirements.

BE IT FINALLY RESOLVED, that this amendment to the Tribe's Gaming Ordinance shall not be effective unless passed by an absolute majority of all eligible voting members of the Tribe.



Moved by



Seconded by



Charlie Vig, Chairman



Keith B. Anderson, Vice-Chairman



Lori K. Watso, Secretary/Treasurer

CERTIFICATION

Special General Council Meeting of September 10, 2013

There are 265 eligible voters pursuant to the voting list certified and posted by the Secretary/Treasurer on September 5, 2013.

To the best of my knowledge and belief, the results reported herein accurately reflect the vote of the General Council at the special meeting held on September 10, 2013.

Special General Council Meeting Resolution No. 09-10-13-001-SGCR

AMENDMENTS TO THE SHAKOPEE MDEWAKANTON SIOUX COMMUNITY GAMING ORDINANCE

The Vote on Special General Council Resolution No. 09-10-13-001-SGCR

137 For 0 Against 8 Abstentions; and
0 Spoiled 1 Chair not voting
X Passed _____ Failed




Charlie Vig, Chairman



Keith B. Anderson, Vice-Chairman

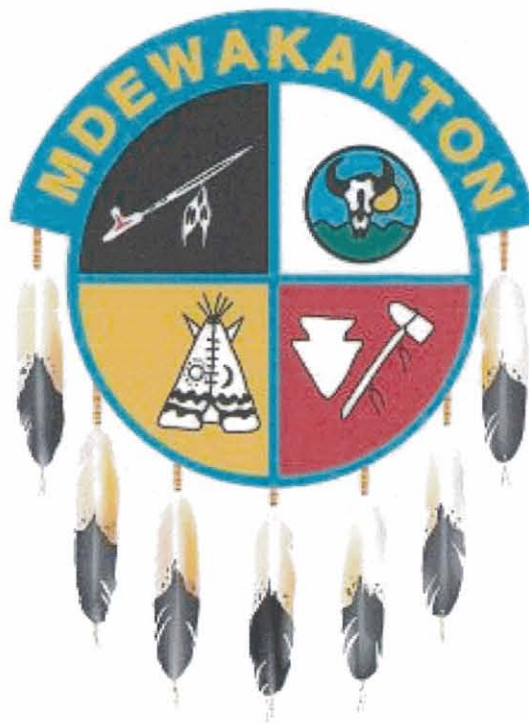


Lori K. Watso, Secretary/Treasurer



Angela D. Sauro, Election Commissioner

SHAKOPEE MDEWAKANTON SIOUX COMMUNITY



AMENDED AND RESTATED GAMING ORDINANCE

September 10, 2013

**SHAKOPEE MDEWAKANTON SIOUX
GAMING ORDINANCE**

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Shakopee Mdewakanton Sioux Community Gaming Ordinance History:

Enacted by the General Council on March 31, 1993, and ratified on April 19, 1993.

Approved by the National Indian Gaming Commission on November 2, 1993.

Amended by the General Council on May 8, 2012.

Amended by the Business Council on July 11, 2012.

Approved by the National Indian Gaming Commission on July 30, 2012.

Amended by the General Council on September 10, 2013.

Approved by the National Indian Gaming Commission on, 2013.

SHAKOPEE MDEWAKANTON SIOUX COMMUNITY

GAMING ORDINANCE

TITLE I. GENERAL PROVISIONS

SECTION 100. SHORT TITLE

This Ordinance shall be known and may be cited as the Shakopee Mdewakanton Sioux Community Gaming Ordinance.

SECTION 101. FINDINGS AND INTENT

The Shakopee Mdewakanton Sioux General Council finds that:

- (a) The Shakopee Mdewakanton Sioux Community is a sovereign entity with the power and authority for self-governance. By virtue of the fact that the United States has recognized the Community as an Indian tribe organized under Section 16 of the Indian Reorganization Act of 1934, and pursuant to the statutes and court decisions of the United States, which together have recognized and maintained the doctrine of Indian sovereignty, the Shakopee Mdewakanton Sioux Community enjoys a federal guarantee of the perpetual integrity of the Shakopee Mdewakanton Sioux Community.
- (b) The Community has the authority and responsibility under the Shakopee Mdewakanton Sioux Community Constitution and Bylaws to "promulgate ordinances which are intended to safeguard and promote the peace, safety, morals, and general welfare of the Community by regulating the conduct of trade and the use and disposition of the property upon the reservation," and "to create subordinate organizations for Community development purposes and to regulate the activities of all such organizations," and to "secure the advantage of local self-government for ourselves and our children."
- (c) The Shakopee Mdewakanton Sioux Community desires to continue to exercise its inherent authority over its internal affairs, as reliance upon federal and other resources has adversely affected the quality of life within this Community in both the present and the past.
- (d) The Shakopee Mdewakanton Sioux Community requires methods for maintaining a base to generate revenues for self-perpetuation and essential governmental services.
- (e) Public Gaming operations have been introduced to the Shakopee Mdewakanton Sioux Community and it is of vital interest to the public health, safety, and welfare of the Shakopee Mdewakanton Sioux people that the Community regulate public Gaming in a manner commensurate with the best interests of the Shakopee Mdewakanton Sioux people.

- (f) The regulation of public Gaming within the Shakopee Mdewakanton Sioux Community is in the best interest of the Shakopee Mdewakanton Sioux people.

Further, the Shakopee Mdewakanton Sioux General Council determines that the intent of this Ordinance is to:

- (g) Foster a spirit of cooperation with the Federal Government through cooperation with the National Indian Gaming Commission regarding the regulation of Class II Gaming;
- (h) Foster a spirit of cooperation with the State of Minnesota in the regulation of Class III Gaming;
- (i) Regulate Gaming on trust lands located within the Shakopee Mdewakanton Sioux Reservation, in compliance with compacts and other applicable law;
- (j) Protect Gaming as a means of promoting Tribal economic development;
- (k) Ensure that Community Gaming is conducted fairly and honestly by both the operators and the players as a genuine means of providing both recreation and entertainment, entirely free from organized crime and other corrupting influences;
- (l) Ensure that the construction and maintenance of all Gaming Enterprises, and the operation of Gaming conducted at those facilities, shall at all times protect the environment, the public health and welfare, and the sovereignty of the Shakopee Mdewakanton Sioux Community, and that such Gaming shall comply with all applicable Tribal, Federal, and State laws;
- (m) Establish an adequate system to ensure financial controls exist which will result in accountability for revenues generated from all Gaming Enterprises conducted within the Shakopee Mdewakanton Sioux Reservation; establish and maintain an adequate system to implement the necessary background investigations, licensing, and monitoring of employees of Gaming Enterprises; and establish and maintain an adequate system for the investigation, enforcement, and prosecution of violations of this Ordinance and the rules and regulations promulgated pursuant thereto;
- (n) Provide, through the revenue generated by License fees levied on Community Licensed Gaming Enterprises, a source of funding for proper administration of this Ordinance;
- (o) Preserve and protect the ability of the managers of Gaming Enterprises to exercise their responsibilities for direct control of Gaming, fiscal planning, reporting and control, and the employment, supervision and discipline of employees; and
- (p) Require all Gaming Enterprises located on trust lands subject to the governmental power of the Shakopee Mdewakanton Sioux Community to be wholly owned by the Community.

SECTION 102. DEFINITIONS

The following words and phrases when used in this Ordinance shall have the meanings respectively ascribed to them in this section:

- (a) "Applicant" shall mean any person who is required to be Licensed by this Ordinance, and who submits a request for the grant or renewal of such License.
- (b) "Blackjack" shall have the meaning given the term in the Tribal-State Compact For Control of Class III Blackjack On the Shakopee Mdewakanton Sioux Reservation, entered into in 1991.
- (c) "Business Council" shall mean the three members of the Shakopee Mdewakanton Sioux Community Business Council, duly elected and serving in accordance with the provisions of the Constitution of the Community.
- (d) "Class I Gaming" shall mean 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.
- (e) "Class II Gaming" shall mean:
 - (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) 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.
- (f) "Class III Gaming" shall mean all forms of gaming that are not Class I Gaming, or Class II Gaming.
- (g) "Commissioner of Gaming" shall mean that person elected to the position of Commissioner of Gaming.
- (h) "Community" shall mean the Shakopee Mdewakanton Sioux Community, a federally recognized Indian tribe organized under Section 16 of the Indian Reorganization Act of 1934.
- (i) "Community Gaming Commission" hereinafter referred to as "the Commission" unless otherwise noted shall mean the five-member Shakopee Mdewakanton Sioux Community Gaming Commission established pursuant to this Ordinance.
- (j) "Compact" shall mean any agreement concerning Class III Gaming between the Community and the State of Minnesota, and any amendments thereto.
- (k) "Gaming" shall mean the act of paying for the opportunity and participation in a game or games of chance for money or something of value, and to operate, carry on, conduct, maintain, or expose for play, money, property, or any representative of value wherein the outcome of a game is decided by chance or in which chance is a material element.
- (l) "Gaming Enterprise" shall mean any commercial business owned by the Community and operated, in part or in whole, for the conduct of bingo, the sale of pull tabs, Gaming in general and the conduct of other games of chance, including but not limited to video games of chance, blackjack, card games, and any other lawful games of chance.
- (m) "Gaming Equipment" shall mean without limitation, any equipment that is employed and integral to the conduct and accounting of gaming.
- (n) "Gaming Operator" shall mean a person, organization or entity that conducts the management of Gaming at a Community Gaming Enterprise, including the Community itself or any subdivision thereof.
- (o) "Gaming Test Laboratory" shall mean, as contemplated by Section 6.1 of the Tribal-State Compact regarding Video Games of Chance, a laboratory agreed to and designated in writing by the State of Minnesota and the Community as competent and qualified to conduct scientific tests and evaluations of video games of chance and related equipment; a laboratory operated by or under contract with

the states of Minnesota, or Nevada, or New Jersey, or South Dakota constitutes a designated gaming test laboratory.

- (p) "General Council" shall mean the governing body of the Community, in accordance with the provisions of the Constitution of the Community.
- (q) "Indian Gaming Regulatory Act of 1988" shall mean the Act of the United States Congress adopted on October 17, 1988, as Public Law 100-497, 102 Stat. 2467, codified at 25 U.S.C. § 2701 *et seq.*
- (r) "Indian Lands" shall mean:
 - (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.
- (s) "Interested Party" shall mean any person who is required to be licensed, or who has a financial interest, whether direct or indirect, in any enterprise, person, facility, or place which is required to be Licensed by this Ordinance and the rules and regulations adopted hereunder.
- (t) "Key Employees" shall mean persons who serve as the General Manager of a Gaming Enterprise, persons who have, alone or with others, the authority to sign checks or create or discharge financial obligations for a Gaming Enterprise, persons who have any contact with a money room of a Gaming Enterprise, and persons whose responsibilities include operation, management, maintenance or other substantial contact of or with video games of chance, blackjack, card games, or other gambling equipment, or any person designated by the Commission as a key employee. Also, persons performing the following functions are key employees:
 - (1) Bingo caller;
 - (2) Counting room supervisor;
 - (3) Chief of security;
 - (4) Custodian of gaming supplies or cash;
 - (5) Floor manager;
 - (6) Pit boss;
 - (7) Dealer;

- (8) Croupier;
 - (9) Approver of credit;
 - (10) Custodian of gambling devices including persons with access to cash and accounting records within such devices;
 - (11) If not otherwise included, any other person whose total cash compensation is in excess of \$50,000 per year; and
 - (12) If not otherwise included, the four most highly compensated persons in the Gaming Enterprise, and its board of directors
-
- (u) "License" shall mean the permission by authority of the Community Gaming Commission to do an act, which shall be illegal without such license. With respect to real property of the Community, a License is a privilege to go on the premises for a certain purpose, but does not operate to confer on, vest in, or grant any title, interest, or estate in such property.
 - (v) "Licensee" shall mean any person, entity or organization granted a License pursuant to the provisions of this Ordinance.
 - (w) "Net Revenues" shall mean gross gaming revenues of an Indian gaming operation less amounts paid out as, or paid for, prizes; and total gaming-related operating expenses, including all those expenses of the gaming operation commonly known as operating expenses and non-operating expenses consistent with professional accounting pronouncements, excluding management fees.
 - (x) "Non-Key Employees" shall mean all employees of a Gaming Enterprise not otherwise included in the above definitions of "Key Employee" or "Primary Management Official".
 - (y) "Other Compacts" shall mean such agreements as may in the future be entered into between the Community and the State of Minnesota, governing Class III Gaming, as that term is defined by the Indian Gaming Regulatory Act of 1988.
 - (z) "Other Games of Chance" shall include, but not be limited to, games similar to traditional bingo in which prizes are awarded on the basis of a designated winning number or numbers, color or colors, symbol or symbols determined by chance.
 - (aa) "Person" shall mean any individual, partnership, corporation, association, or public or private organization.
 - (bb) "Person Having Management Responsibility" shall mean the person having management responsibility for the Gaming Enterprise or a portion thereof, or any person to whom such authority is delegated.
 - (cc) "Primary Management Officials" shall mean any persons designated by the

Commission as a "Primary Management Official", or any persons who have a direct financial interest in, or management responsibility for, a Gaming Enterprise, and in the case of a corporation, shall include those individuals who serve on the board of directors of such corporation. If not otherwise included, "management official" shall also mean:

- (1) The person having management responsibility for a management contract approved pursuant to federal statutory and regulatory authority;
 - (2) Any person who has authority:
 - (i) To hire and fire employees; or
 - (ii) To set up working policy for the Gaming Enterprise;
 - (3) The chief financial officer or other person who has financial management responsibility.
- (dd) "Shall" is used in this Ordinance as imposing an obligation to act.
- (ee) "Traditional Bingo" shall mean that game commonly known as bingo.
- (ff) "Tribal General Legal Counsel" shall mean the lawyer or legal firm or association with whom the Community has contracted to represent the Community in all legal matters.
- (gg) "Video Game of Chance" shall have the meaning given the term in the Tribal-State Compact for Control of Class III Games of Chance on the Shakopee Mdewakanton Sioux Community Reservation in Minnesota, entered into December 4, 1989.

SECTION 103. EFFECT OF HEADINGS

Article and section headings contained herein shall not be deemed to govern, limit, modify, or in any manner affect the scope, meaning, or intent or the provisions of any article or section of this Ordinance.

SECTION 104. LIBERAL INTERPRETATION

The provisions of this Ordinance, being necessary for the welfare of the Community and its members, shall be liberally construed to effect the purpose and objective hereof, but in all cases, consistent with the provisions of IGRA or any other applicable law.

SECTION 105. SEVERABILITY

The provisions of this Ordinance are severable; if any part or provision hereof shall be held void by tribal or federal court or federal agency, the decision of the court or agency so holding shall not affect or impair any of the remaining provisions of the Ordinance. Citation to potential court

action is this section shall not be deemed a waiver of the Community's sovereign immunity from suit.

SECTION 106. IMPLEMENTATION

It being immediately necessary for the preservation of the public peace and safety of the Community and its members, this Ordinance shall take effect and be in full force from and after its approval and passage by the General Council, and shall remain in effect pending approval from the Secretary of the Interior and the National Indian Gaming Commission (NIGC). If any section, provision, term or requirement of the Ordinance is determined by the NIGC to conflict with the provisions of IGRA or the applicable regulations promulgated thereto, that determination shall not require subsequent re-approval of the Ordinance by the General Council, but shall require only that the Ordinance be brought into technical compliance by the Commission with the regulations to which it is subject.

SECTION 107. AMENDMENT

This Ordinance may be amended only upon an affirmative vote of an absolute majority of all eligible voting members of the General Council at a meeting called specifically and exclusively for the purpose of amending the Gaming Ordinance, and then such amendment shall be valid only if it complies with the terms and provisions of IGRA.

TITLE II. DEVELOPMENT, ADMINISTRATION, AND ENFORCEMENT

SECTION 200. ELECTION AND COMPOSITION OF COMMUNITY GAMING COMMISSION

- (a) Nomination of Members of the Commission. The General Council shall nominate up to five (5) candidates for the position of Gaming Commissioner, together with five (5) other nominations for the positions of members of the Commission, for a total of ten (10) nominees for purposes of selection by the General Council of one (1) person to serve as Gaming Commissioner, one (1) person to serve as Assistant Commissioner, together with three (3) persons to serve as members of the Commission, which will have sole authority to regulate any and all gaming activity on the Shakopee Mdewakanton Sioux Reservation, including but not limited to the functions of: issuing gaming licenses, whether for persons, distributors, gaming enterprises, or otherwise, as required by this Ordinance; conducting background investigations of persons requesting licenses; ensuring compliance with the provisions of this Ordinance; or ensuring compliance with the provisions of IGRA.
- (b) Nomination Process. The nomination process shall be initiated by the Business Council within fifteen (15) calendar days of any vacancy on the Commission. The Business Council shall publish to the General Council members in written form the positions available on the Commission, together with the qualifications which the individual candidates must possess to serve on the Commission. The Business Council shall continue to receive nominations for fourteen (14) calendar days after the notice of nomination has been received by the General Council members. At the expiration of the fourteen day period, and within fourteen (14) calendar days following, the Business Council shall schedule a General Council meeting for purposes of selecting the persons to serve on the Commission.
- (c) Selection Process. The persons to serve on the Commission shall be selected at a General Council meeting. The individual nominees shall appear and state their qualifications for the position for which they were nominated. Following presentation of the candidates, there shall be an election for the members of the Commission, including the Commissioner. The selection process shall be as follows:
 - (1) The person with the highest vote total nominated to the position of Commissioner shall serve as the Commissioner of Gaming.
 - (2) The person with the second highest vote total nominated to the position of Commissioner shall serve as the Assistant Commissioner of Gaming.
 - (3) The remaining three (3) positions on the Commission shall be filled by the three (3) candidates with the highest vote totals, whether the individual candidate was nominated for the position of Commissioner or for general

membership on the Commission.

(d) Duties of Commissioner, Assistant Commissioner, Members of the Commission.

- (1) The Commissioner of Gaming shall have responsibility for calling and presiding over meetings of the Commission, presiding over rulemaking procedures, and presiding over any hearings which the Commission might conduct, as well as overseeing administration of the daily affairs of the Commission including the receipt of complaints concerning gaming or persons associated with gaming, directing activities of persons charged with conducting background investigations and investigations of complaints, keeping all records, whether relating to financial matters, licenses, investigations, or any other aspect of the Commission's duties and responsibilities, and delegating such responsibilities as the Commissioner deems necessary. The Commission shall be responsible for communicating to the Business Council information related to the conduct of the Commission on a regular basis. Such information shall also be made available to the General Council upon request.
- (2) The Assistant Commissioner of Gaming shall have responsibility for acting as Commissioner in the Commissioner's absence or disability.
- (3) The Members of the Commission shall be required to vote pursuant to Section 202 in all cases where the Commission is required to make a decision regarding licensing, suspension of licenses, rule-making, a hearing determination regarding the imposition of sanctions including but not limited to licensing revocation, restriction or limitation, civil penalties, or the exclusion or ejection of any person, as well as annual license renewal.

(e) Qualifications of the Members of the Commission. The members of the Commission shall be at least eighteen (18) years of age and eligible voting members of the Community. The members of the Commission shall in all cases be required to complete an application for licensing which complies with the provisions of the IGRA and this Ordinance, and a background check shall also be conducted for each individual nominee for a position on the Commission, which background check shall fulfill the requirements of the IGRA and this Ordinance. Any person not possessing the necessary qualifications for licensing under the provisions of the IGRA and this Ordinance may not serve on the Commission in any capacity. The members of the board of directors and all employees of the Gaming Enterprise, and any member of the Business Council shall be precluded from serving on the Commission.

(f) Term of Office For Members of the Commission. The term of office for the Members of the Commission shall be four years, with the initial members of the Commission serving for the following terms: The Commissioner of Gaming shall serve for four years, the Assistant Commissioner shall serve for three years, and

the remaining members of the Commission shall serve for two year terms. All subsequent terms for all members of the Commission, including the Commissioner of Gaming and the Assistant Commissioner of Gaming shall be four year terms.

SECTION 201. REMOVAL FOR CAUSE

- (a) Removal Procedure. The Shakopee Mdewakanton Sioux Community may remove a Commissioner from office in a proceeding commenced by at least one third (1/3) of the eligible voting members of the Community, which members must sign a certified petition for removal which states the cause for removal, and which is brought before the General Council by the Business Council as an agenda item presented for a vote to the members of the Community at a General Council meeting, and which makes known to the members of the Community the action of the Commissioner which is asserted as the basis for removal for cause. Upon receipt of the petition for removal, the Business Council shall notify the person whose removal is sought within three days. Within fifteen (15) days the Business Council shall schedule a General Council meeting for purposes of hearing the removal action. If the Business Council shall fail to schedule a meeting in the required period of time, then any member of the General Council shall have the authority to schedule a meeting. The meeting notice must contain a recitation of the charges or cause asserted for removal. An affirmative vote of forty per cent (40%) of all the eligible voting members of the General Council is required to remove any person from their position on the Commission.
- (b) Review of Removal by Tribal Court. Upon approval of the removal action by a the required number of voters, the action may be submitted to the Shakopee Mdewakanton Sioux Community Court, and the Court shall review the removal action, and issue a declaration that the Commissioner subject to the removal action did in fact violate the removal for cause provisions of this Ordinance, and shall be removed from office.
- (c) Cause For Removal. Cause for removal shall consist of fraudulent or dishonest conduct, or gross abuse of authority or discretion with respect to the duties of the Commissioner who is the subject of the removal action, unexcused failure to attend at least three consecutive meetings, or conviction of a felony while serving on the Commission. In no case shall the performance of the duties of a Commissioner in compliance with the provisions of this Ordinance be considered a basis for removal. In all cases the burden of proof, including the burden of presenting evidence and persuading the court that the action complained of was fraudulent, dishonest, or was a gross abuse of authority or discretion, shall rest with the members of the Community seeking removal of the Commissioner or a member of the Commission.

SECTION 202. DECISION-MAKING BY THE COMMISSION

In all cases where a decision is required of the Commission by the provisions of this Ordinance,

the Commission shall make said decision after deliberations on the merits of the issue before it, and shall in all cases make a determination of the issue by majority vote of at least a quorum of the Commission, and the position receiving the majority of the votes shall represent the position of the Commission with regard to the matter. All votes by the Commission shall be recorded, and a written record shall be maintained which sets forth the position of the individual members of the Commission.

SECTION 203. GAMING COMMISSION MEETINGS

Regular meetings of the Commission shall be held at such dates, times, and places as the Commissioner of Gaming shall establish. A majority of the members of the Commission shall constitute a quorum, which number shall be necessary and sufficient for a meeting to be held and business to be conducted, however, all votes shall be taken in compliance with Section 202. Notice of the meeting shall be provided at least 48 hours in advance, which notice shall include the agenda and the name of any person whose License which will be considered at the meeting. Upon payment of a reasonable fee, any Interested Party shall be provided with such notice. The Gaming Commission shall in all cases determine the reasonable fee.

(a) Regular meetings shall be closed to all non-members, with the exception of NIGC members or their authorized representative, and may be closed to enrolled members of the Community for purposes of protecting the privacy of the individual Licensee, but only after passage of a recorded motion for executive session. At regular meetings the Commissioners shall deal with the routine business and affairs of the Commission, including but not limited to:

- (1) Consideration of applications, and the accompanying background information required by this Ordinance as part of the application process;
- (2) Meeting with officials of the National Indian Gaming Commission, State of Minnesota, or any other law enforcement agency or office for purposes of ensuring compliance with or enforcement of this Ordinance, or for purposes of pursuing possible criminal violations related to gaming, which violations occurred upon or are related to gaming conducted on property under the control of the Shakopee Mdewakanton Sioux Community.
- (3) To receive oral reports of alleged criminal violations, which violations occurred upon or are related to Gaming conducted on property under control of the government of the Shakopee Mdewakanton Sioux Community.
- (4) Deliberations of matters related to licensing decisions, and the factual determinations related to those decisions;
- (5) Examination of financial or other data required to be reviewed by the Commission under the provisions of this Ordinance, and which may be of a confidential nature;
- (6) Consultation with legal counsel.

- (b) Record of Proceedings. A record shall be made of all proceedings of the Commission, whether in open or executive session, which record shall reflect all factors considered by the Commission; such record shall be available to the affected party and shall be made available to enrolled members only with the consent of the affected party or by order of the Shakopee Mdewakanton Sioux Community Court by request of an enrolled member.
- (c) Special Meetings. The Commission shall hold special meetings, pursuant to the notice requirements defined above, at any time the Commission deems necessary and appropriate, which may be open only to NIGC members or their authorized representative, and to enrolled members of the Community for the purposes of:
 - (1) Holding a hearing prior to a final action denying, revoking, or placing a limitation on a License;
 - (2) Holding hearings related to the promulgation of substantive and procedural regulations under the authority granted the Commission by this Ordinance; and
 - (3) Holding hearings related to violations of this Ordinance which may be punishable by civil penalties or other sanctions.
- (d) Closed Special Meetings. Following special meetings which are open only to NIGC members or their authorized representatives and enrolled members of the Community, the Commission may hold closed special meetings for the purposes of deliberations regarding the decision to be made concerning the matters presented at the public meetings. However, the requirement that there be a record established also applies here.

SECTION 204. CONFLICT OF INTEREST

No Member of the Commission, including the Commissioner of Gaming, employee of the Commission, or any person serving in any capacity as agent of the Commission, or any member of his/her family living with him/her, may have a financial interest, other than that financial interest resulting from Community membership, in any Gaming business or enterprise, or in any Gaming contractor, vendor, or any person providing services to Gaming, or accept any gift or thing of value from a Gaming contractor. Nothing in this section shall prohibit a member of the Commission, or other person subject to this section, from having a financial interest in any Gaming business or enterprise operating pursuant to the provisions of this Ordinance, which interest derives from their status as a Community member, including any distribution payments derived from profits made by such gaming business or enterprise.

The Commissioner of Gaming and the Members of the Commission shall be restricted from Gaming in any manner in any facility, place, enterprise, or establishment which is subject to regulation pursuant to the provisions of this Ordinance.

SECTION 205. POWERS OF COMMUNITY GAMING COMMISSION

The Community Gaming Commission may exercise any proper power and authority necessary to perform the duties and discharge the responsibilities with which the Commission is charged. Those powers include, but are not limited to, the power to:

- (a) Receive and process all License applications, and issue Licenses to all gaming operations, persons, individuals, and distributors who are required to be licensed by this Ordinance and who qualify for such licensure, and if applicable, notify the National Indian Gaming Commission of the issuance of such licenses;
- (b) To conduct or cause to be conducted background investigations of all License applicants including, Vendors, Consultants, Primary Management Officials, Key Employees, and Non-Key Employees of the involved Gaming Enterprise, as well as background checks of the members of the Commission and any employees of the Commission;
- (c) To deny any License application, and to limit, suspend, restrict, or revoke any License upon a finding that the provisions of this Ordinance or other applicable law have been violated
- (d) Review all contracts to:
 - (1) Determine whether the transaction documents are a contract;
 - (2) Determine whether the contract is or is not related to Gaming, and if related to Gaming, whether it is subject to the provisions of this Ordinance; and
 - (3) Determine whether the non-Tribal party to the contract must be licensed under the provisions of this Ordinance.

Nothing in this Section shall prevent a Gaming Enterprise from engaging in a transaction which might involve Gaming related contracts under the provisions of this Ordinance, or any regulations promulgated hereunder, but it shall be the duty of the Gaming Enterprise to notify the Commission of transactions which might be Gaming related, and request of the Commission a determination regarding whether the transaction is or is not a gaming related contract.

- (e) Collect License fees;
- (f) Consult with Tribal General Legal Counsel to advise the Commission as needed, but in those situations where a member of the Commission has been removed for cause by the General Council and that action is on appeal to the Tribal Court, the Commission member may be represented by independent legal counsel;
- (g) Inspect and examine, during regular business hours, all premises where Gaming is conducted or Gaming devices or equipment is sold or distributed;

- (h) Inspect, review, and photocopy all Gaming operations contracts, papers, records, books, or other pertinent documents relating to the conduct of Gaming, when deemed necessary for the purpose of determining compliance by the Licensee with the provisions of this or any related Ordinance, or to ensure compliance by the Licensee with the provisions of any contract or agreement related to Gaming, or to ensure the enforcement of this or any related Ordinance, or to determine the suitability of any Applicant for a License;
- (i) To hold hearings, and to require Licensees or License Applicants to appear and testify under oath regarding matters related to the enforcement of the provisions of this Ordinance, complaints received about matters within the purview of the Commission to address, actions by the Commission regarding licenses, or any other matters over which the Commission has authority;
- (j) To promulgate such regulations as are deemed necessary for the purpose of giving effect to the provisions of this Ordinance, including but not limited to:
 - (1) Substantive rules concerning: the issuance, suspension, or revocation of Licenses; the conduct, operation, and oversight of gaming activities; the investigations and inspections into the conduct of gaming and the actions of Licensees; the maintenance of gaming equipment; and any other matters with which the Commission must deal to fulfill its responsibilities and which are deemed necessary by the Commission to further compliance with this Ordinance; and
 - (2) Procedural rules concerning: the conduct of hearings; the administration of the daily affairs of the Commission; investigations and inspections of gaming, or persons involved with or licensed in connection with Gaming; the processing and disposition of complaints which may be received by the Commission from members of the Community or the general public regarding matters within the authority of the Commission; and any other rules deemed necessary by the Commission to further compliance with this Ordinance;
- (k) To impose civil penalties or other sanctions as is deemed appropriate by the Commission in compliance with the provisions of this Ordinance; and
- (l) To retain staff, and to delegate, from time to time, such powers as the Commission deems necessary to fulfill the duties of the Commission, provided that the power to vote as described in Section 202 shall not be delegated.

SECTION 206. DUTIES OF COMMUNITY GAMING COMMISSION

It shall be the responsibility of the Commission to ensure that all duties of the Commission are discharged in a manner which assures compliance with this Ordinance and all other applicable laws of the Shakopee Mdewakanton Sioux Community, the United States, and the State of Minnesota. The duties of the Commission shall include:

- (a) Processing all License applications, reviewing and approving the investigative work, making determinations regarding the eligibility of persons for licensing, submitting a notice of results of the License applicant's background investigation to the NIGC as required, issuing Licenses to those persons qualified for such licensure, and notifying the NIGC of the License decisions as required by 25 U.S.C. § 2701, *et. seq*;
- (b) Denial, limitation, revocation, rescission or suspension of any License when deemed necessary under the provisions of this or any related Ordinance or Law of the Shakopee Mdewakanton Sioux Community, or any applicable Federal or State law;
- (c) Conducting, or causing to be conducted, background investigations on all License applicants, including Vendors, Consultants, Primary Management Officials, Key Employees, and Non-Key employees of the involved Gaming Enterprise, as well as background checks of the members of the Commission and any employees of the Commission. The Commission is also responsible for obtaining and processing fingerprints;
- (d) Printing and making available all necessary License application forms, together with the appropriate licenses;
- (e) Collection of License fees imposed pursuant to the terms of Section 205(j)(1) of this Ordinance;
- (f) Inspection and examination of all premises where Gaming is conducted or gaming devices or equipment are sold or distributed;
- (g) Inspection, review, and oversight of all Gaming contracts to ensure compliance with the terms of this Ordinance; and inspection, review and examination of all records, books, and financial documents relating to the conduct of Gaming to determine compliance by the Licensee with the provisions of this Ordinance or any other applicable law;
- (h) Review of all contracts to:
 - (1) Determine whether the transaction documents are a contract;
 - (2) Determine whether the contract is or is not related to gaming, and, if related to gaming, whether it is subject to the provisions of this Ordinance; and
 - (3) Determine whether the non-Tribal party to the contract must be Licensed under the provisions of this Ordinance.

Nothing in this Section shall prevent a Gaming Enterprise from engaging in transactions which might involve a Gaming related contract under the provisions of this Ordinance, or the regulations promulgated hereunder, but it shall be the

duty of the Gaming Enterprise to notify the Commission of such a transaction and request from the Commission a determination that the transaction is or is not a Gaming related contract.

- (i) Requiring, and causing to be conducted and provided to the NIGC annually, outside independent audits of all Gaming activity as required by IGRA; all contracts related to the conduct of Gaming, with the exception of those contracts for legal and accounting services, whether those contracts be for supplies, services, concessions or other subject matter which the Commission determines to be related to Gaming, and which are for a contract amount in excess of \$25,000 annually shall be subject to such independent audits.
- (j) Promulgation of such substantive and procedural regulations as the Commission deems necessary to administer the provisions of this Ordinance, but only upon a minimum thirty (30) days public notice of the proposed rulemaking action, which notice shall be published and posted at the Gaming Enterprise, mailed to all eligible voting members of the General Council, posted at the Community Center, and provided in written form to the board of directors of any Licensed Gaming Establishment.
 - (1) The notice shall specify the purpose of the proposed regulation, the draft language of the proposed regulation, and the factors the Commission has considered in its determination to enact the proposed regulation, and an address at which the Commission shall receive comments pursuant to the provisions of (2), below;
 - (2) During the notice period the Commission shall receive comments regarding the proposed regulation at the Commission offices, or at a designated mailing address.
 - (3) The comments received by the Commission shall be considered by the Commission at a meeting open to the public, and the Commission shall make a final determination regarding the need for the proposed regulation, the language of the proposed regulation, and the effective date of the proposed regulation on the basis of all the information available to the Commission.
 - (4) Within thirty (30) days of the effective date of the proposed regulation adopted by the Commission, a General Council vote concerning the proposed regulation, as enacted by the Commission, may be requested. To initiate the review by the General Council, 1/3 of the eligible voting members of the Community shall sign a petition requesting such a vote, which petition shall be submitted to the Business Council. The Business Council shall thereafter schedule, within thirty (30) days of receipt of the petition, a vote on the regulation. The petition shall state the objections to the proposed regulation, the date of filing, and list the names, together with the signatures, of the persons requesting the General Council vote.

The regulation shall thereafter become effective only upon approval by a majority of a quorum of the voting members of the General Council, however, if a quorum is not present at the General Council meeting scheduled for the vote on the contested regulation, then the regulation shall become effective without further action by the Commission.

- (k) Consultation with Tribal General Legal Counsel to advise the Commission as needed;
- (l) Imposing civil penalties or other sanctions, including seizure of property, after a hearing as provided by this Ordinance;
- (m) Defending this Ordinance in any court with proper jurisdiction or before any federal agency, however, any reference herein to legal action shall not be deemed a waiver of the Community's sovereign immunity from suit.
- (n) Proposing an annual budget for Commission operations pursuant to the provisions of this Ordinance; remuneration to or salaries for the Commissioner and Commission members shall be set by the Business Council and such amount shall be reflected in the proposed budget. The Business Council's determination shall be subject to notice and review by the General Council.
- (o) Ensure that the construction and maintenance of all Gaming Enterprises, and the operation of Gaming conducted at those facilities, shall at all times protect the environment, the public health and welfare, and the sovereignty of the Shakopee Mdewakanton Sioux Community, and that such Gaming shall comply with all applicable Tribal, Federal, and State laws.
- (p) The performance of any other duties required in the Ordinance or any amendments thereto.

SECTION 207. PLAN OF ORGANIZATION, DELEGATION OF AUTHORITY

The Community Gaming Commission may organize any functional committees or divisions from among its members as may be necessary, and may from time to time alter such plan of organization as may be expedient, and may delegate all powers vested in the Commission by this Ordinance, with the exception of the power to vote, to the divisions or committees so formed.

SECTION 208. DELETED

SECTION 209. HEARING

- (a) Opportunity for Hearing. The Community Gaming Commission shall afford an applicant for a License an opportunity for a hearing prior to a final action denying such application and shall afford a licensee or any other person(s) subject to this Ordinance, the opportunity for a hearing prior to taking final action resulting in termination, revocation, or limitation of a license, or the imposition of any sanctions which the Commission is authorized to impose under Sections 214, 215,

and 216, and which the Commission deems proper.

- (b) Hearing Procedures. Such hearing shall be conducted as an adjudicatory proceeding, with an opportunity given the affected party to be represented by counsel, present testimony, exhibits, and any other evidence which the affected party feels will support the party's position. In all cases such hearings shall be held on the record, and, in cases of license denial, witnesses may be required to testify under oath. In all cases which might result in the imposition of sanctions, testimony shall be taken by the Commission under oath.
- (c) Emergency Action, Suspension Without Hearing. However, the Commission may summarily suspend temporarily or may extend suspension of a license for up to fifteen (15) days without a hearing in those cases where such extraordinary action is essential to protect the public safety or the integrity of Gaming conducted on the Shakopee Mdewakanton Sioux Reservation. Such action shall be taken only in those emergency cases where there is a clear need for these extraordinary measures. In cases where a license is suspended prior to a hearing, an opportunity for a hearing shall be provided which complies with the provisions of this Ordinance.

SECTION 210. COMMUNITY GAMING COMMISSION FINDINGS

Whenever upon specific factual finding the Community Gaming Commission determines that any person has failed to comply with the provisions of this Ordinance, any regulation promulgated hereunder, or other applicable law, the Commission shall make a written certification of the specific findings of fact, and shall send a copy thereof within (5) days, to the subject or subjects of that determination. The Commission shall, after notice provided hold a hearing. The hearing shall be held within not less than thirty (30) days and not more than sixty (60) days thereafter, at which time the subject shall have an opportunity to be heard and present evidence.

SECTION 211. DELETED

SECTION 212. COMMUNITY GAMING COMMISSION DETERMINATION

Following such hearing the Community Gaming Commission shall, within seven (7) days, reach a determination concerning the accuracy of the preliminary certification of facts and whether the License in question should be granted, continued, suspended, revoked, conditioned, or limited and whether any other action recommended to or by the Commission including, but not limited to, forfeitures or fines should be taken.

SECTION 213. WRITTEN DETERMINATION PROVIDED

Within three (3) days following its determination the Commission shall inform the subject, in writing, of that determination.

SECTION 214. VIOLATIONS AND SANCTIONS

Any person who engages in Gaming or Gaming related activities on property subject to the provisions of this Ordinance without a gaming License, or in violation of the terms imposed by a Gaming License, or in violation of the terms of a suspension imposed by the Commission on that Gaming License, or in violation of any other provision of this Ordinance and regulations promulgated hereunder, or amendments hereto, shall be in violation of the Ordinance. This provision shall apply to any person who is upon any premises licensed by this Ordinance without the consent of the licensee and/or the Shakopee Mdewakanton Sioux Community Gaming Commission.

- (a) Violation of any provision of this Ordinance or any of the Commission's Regulations by a Licensee, his or her agent, or employee:
 - (1) Shall be deemed contrary to the public safety, good order, and general welfare of the Community and its members;
 - (2) May be grounds for refusing to grant or renew a License, or for suspension or revocation of a License;
 - (3) May be grounds for filing a complaint with the NIGC;
 - (4) May be grounds for filing criminal charges and/or a civil action in a court of competent jurisdiction on behalf of the Community Gaming Commission; and
 - (5) In the case of a Licensee being convicted of a felony, shall be grounds for immediate revocation of the License.
- (b) Acceptance of a License or renewal thereof or condition imposed thereon by a Licensee constitutes agreement on the part of the Licensee to be bound by all the regulations and/or conditions of the Community Gaming Commission and by the provisions of this Ordinance, and the regulations promulgated hereunder, and as the same may hereafter be amended. It is the responsibility of the Licensee to keep him/herself informed of the contents of all such regulations, provisions, and conditions, and ignorance thereof will not excuse the violations.
- (c) Any person in violation of this Ordinance shall be subject to sanctions under this Ordinance. The following provisions shall govern the response of the Commission to violations:
 - (1) Each day of violation may constitute a separate count or violation of this Ordinance. Separate violations shall be prosecuted as separate offenses before the Commission or a court of competent jurisdiction;
 - (2) All property used in each and every separate violation of this Ordinance may become the property of the Community. All property used in each and every separate violation of this Ordinance may be subject to forfeiture

following a hearing;

- (3) Violators may also be required to pay court costs, storage fees, and auction or sales fees;
- (4) Persons may be excluded or ejected from Gaming Enterprises or prohibited from trespassing on premises licensed under this Ordinance, and may be subjected to civil penalties or sanctions for violating the provisions of Section 216;
- (5) Licenses may be suspended, revoked, or limited and/or Gaming Establishments may be forcibly closed;
- (6) Winnings found to have been received in violation of this ordinance may be confiscated and may, following a hearing, be forfeit and become the property of the Community;
- (7) Civil penalties may be imposed as additional sanctions, in the amounts prescribed and in accordance with the hearing procedures set forth in this Ordinance.

Any of the above actions may be taken at the discretion of the Commission.

SECTION 215. CIVIL PENALTY PROVISIONS

It shall be a civil violation of the laws of the Shakopee Mdewakanton Sioux Community to disobey the provisions of this Ordinance or any regulations promulgated by the Community Gaming Commission, or any proper order issued under the authority of this Ordinance. Any person or Licensee found to be guilty of such violation may be assessed a civil penalty. Civil penalties may be imposed pursuant to and in compliance with the provisions of this Ordinance, and any regulations promulgated by the Commission under the authority provided in this Ordinance. Civil penalties may be imposed in addition to the imposition of any other sanctions permitted under this Ordinance, including but not limited to suspension or revocation of the Gaming License for a period not to exceed one year. Civil penalties may be imposed up to the amount of \$25,000.00 for each individual violation.

SECTION 216. EXCLUSION OR EJECTION OF CERTAIN PERSONS FROM GAMING ESTABLISHMENTS

- (a) Exclusion or Ejection of Persons Permitted. The Community hereby declares that the exclusion or ejection of certain persons from licensed gaming establishments, facilities, enterprises or places is necessary to carry out the policies of this Ordinance and to maintain the health, welfare, safety and security of the public, as well as to protect the integrity of gaming conducted on the Shakopee Mdewakanton Sioux Reservation.
- (b) Notice To Gaming Enterprise. In the furtherance of the policies of this section the Commission may provide for any Gaming Enterprise, facility, or place a list of

persons who are not permitted to enter or be on the premises, and who may be forcibly excluded or ejected therefrom, including any person whose presence poses a threat to the Shakopee Mdewakanton Sioux Community, the State of Minnesota, or to the integrity of licensed gaming conducted within the Reservation. Upon a finding that a person should be excluded or ejected for any of the reasons specified in Section 217, the Commission shall provide the Gaming Enterprise with a picture of that person, with a written description of that person, together with written notice that the person shall not be permitted to enter or be on the premises of any Gaming Enterprise, and who, upon identification by the Gaming Enterprise, shall be forcibly ejected or excluded therefrom.

- (c) Exclusion by Gaming Enterprise. The Licensee of any Gaming Establishment may independently make a finding that any person should be excluded or ejected for any of the reasons specified in this Section, and may act to exclude or eject such persons, provided that any person so ejected shall be provided with written notice of the right to a hearing to appeal such action to the Commission.

SECTION 217. FACTORS TO BE CONSIDERED BY THE COMMISSION IN MAKING ITS DETERMINATION TO EXCLUDE

In making its determination regarding exclusion or ejection from a gaming facility, place, establishment, or enterprise the Commission shall consider:

- (a) That person's prior conviction for a felony, a misdemeanor involving moral turpitude, or a violation of the Gaming laws of any Indian Tribe, State, or of the United States;
- (b) Any violation or attempt to violate, or conspiracy to violate the provisions of this Ordinance relating to the disclosure of an interest in a Gaming Enterprise;
- (c) Failure to disclose information required by the license application, or any effort to evade taxes or fees associated with the conduct of Gaming;
- (d) Any reputation for behavior which would adversely affect the public confidence in the Gaming Enterprise and trust that the Gaming industry is free from criminal or corrupting influences;
- (e) Any attempt to manipulate or tamper with any Gaming equipment or alter or distort the normal conduct of any game, or to conspire with any other person for such purposes; and
- (f) Any other action or behavior deemed wrongful or inappropriate.

SECTION 218. NOTICE TO EXCLUDED PERSONS

When the name and description of a person is placed on the List of excluded persons, the Commission or the Gaming Enterprise shall, if possible, give notice of the action to that person by at least one of the following means:

- (a) By personal service;
- (b) By certified mail to the last known address of the person.

SECTION 219. APPEAL

Persons against whom action has been taken pursuant to Sections 214 through 218 by the Commission and who have been heard before the Commission may appeal the Commission's decision to the Shakopee Mdewakanton Sioux Community's Tribal Court. In all appeals before the Tribal Court, there will be deference given by the Tribal Court to the determination of the Commission as the agency charged with responsibility for interpreting its own regulations. Findings of fact made by the Commission may be certified for review by the Tribal Court.

The Tribal Court will overturn actions of the Commission only where it can be shown that those actions were arbitrary and capricious, or were clearly an abuse of the Commission's discretion. In all cases, the evidentiary standard on review shall be a preponderance of the evidence standard.

SECTION 220. NO LIMITATION ON THE NUMBER OF GAMING ENTERPRISES

Nothing in this Ordinance shall limit the number of Gaming Enterprises the Commission can license to conduct Gaming on the Shakopee Mdewakanton Sioux Community Reservation or lands subject to the governmental control of the Shakopee Mdewakanton Sioux Community, pursuant to the provisions of this Ordinance and IGRA, but in all cases, each separate facility, place, or location shall require a separate license, issued specifically for that place, facility, or location.

TITLE III. LICENSING

SECTION 300. LICENSE REQUIRED

- (a) For purposes of minimizing the promulgation and maintenance of provisions that are subject to continuous regulatory updates within this Title, and are explicit to the licensing of Primary Management and Key employees, the Community Gaming Commission shall further establish and maintain comprehensive rules in Chapter 3 of the Community Gaming Regulations that require the performance of background investigations and the issuance of licenses for Key employees and Primary Management Officials according to requirements that are at least as stringent as those in parts 25 CFR Parts 556 and 558 and any subsequent amendments.
- (b) Any person, organization, or entity (including Primary Management Officials and Key Employees) conducting a public Gaming Enterprise on behalf of the Community, or acting as the agent of such person, organization or entity, on property within the exterior boundaries of the Shakopee Mdewakanton Sioux Community Reservation and/or on property which is subject to the jurisdiction of the Community, or any person, organization, or entity selling, leasing, or otherwise distributing gambling equipment or video games of chance to the Community, shall be required to have and display prominently, or display upon request, an appropriate, valid, and current Community public Gaming License issued pursuant to the provisions of this Ordinance. A License shall also be required for each facility, place, establishment, or enterprise where Gaming is conducted. Any other form of public Gaming operations being conducted within the jurisdiction of the Community without the lawful written approval of the Commission is prohibited.

SECTION 301. APPLICATION NECESSARY FOR PUBLIC GAMING ACTIVITIES

Except as provided in Section 317, all persons or organizations who may seek to engage in public gaming activities within the jurisdiction of the Community must apply to the Community Gaming Commission for the appropriate License pursuant to this Section and in accordance with the provisions of Chapter 3 of the Community Gaming Regulations, prior to commencing such activities.

SECTION 302. APPLICATION FOR GAMING ENTERPRISE

The License application for a tribally or non-tribally operated Gaming Enterprise shall be completed and submitted to the Community Gaming Commission in accordance with this Section and Chapter 3 of the Community Gaming Regulations. In addition, the Commission shall enforce the license notifications and submissions requirements under 25 CFR part 559. Any of the requirements to providing information may be waived by the Commission for good cause shown, provided that the waiver of such information does not conflict with any applicable Tribal, Federal, or State laws.

SECTION 303. APPLICATION AND INVESTIGATION REPORT FOR PRIMARY MANAGEMENT OFFICIALS AND KEY EMPLOYEES

When a Primary Management Official or a Key Employee is employed by the Gaming Enterprise, the Community Gaming Commission shall maintain a complete application file containing the information set forth in this Section and in Chapter 3 of the Community Gaming Regulations. Such information shall include:

- (a) Notices. The License Application for Primary Management Officials and Key Employees of any Gaming Enterprise of the Community shall contain the following statements:
 - (1) Privacy Notice. 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 Shakopee Mdewakanton Sioux Community Gaming Commission and by 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 by the Shakopee Mdewakanton Sioux Community Gaming Commission or National Indian Gaming Commission 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 pursuant to a requirement by the Shakopee Mdewakanton Sioux Community Gaming Commission or the National Indian Gaming Commission in connection with the issuance, denial, or revocation of a gaming license, or investigations of activities while associated with a tribe or a gaming operation. Failure to consent to the disclosures indicated in this notice will result in the Shakopee Mdewakanton Sioux Community Gaming Commission 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.
 - (2) Notice Regarding False Statements. A false statement on any part of your license 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).
 - (3) Notice to Existing Key Employees and Primary Management Officials. The Shakopee Mdewakanton Sioux Community shall provide written notice (concerning Sections (1) and (2) above) to existing Key Employees and Primary Management Officials, in accordance with Section 310 of this Ordinance.

- (b) Required Information. The Community Gaming Commission shall set forth in Chapter 3 of the Community Regulations the specific information required to be provided by each Primary Management Official and Key Employee. Such information shall meet or exceed National Indian Gaming Commission requirements pursuant to 25 C.F.R. Part 556.
- (c) Fingerprints. The fingerprints of the applicant to be captured by the Community Gaming Commission and submitted to either, the Minnesota State Alcohol and Gambling Enforcement Division, or the National Indian Gaming Commission for conducting a criminal history check through local, state, and federal law enforcement agencies, including a check of the criminal history records maintained by the Federal Bureau of Investigations; and

SECTION 304. BACKGROUND INVESTIGATION

- (a) The Community Gaming Commission shall perform a background investigation pursuant to this Section and Chapter 3 of the Community Gaming Regulations, for each Primary Management Official and for each Key or Non-Key Employee of a Community Gaming Enterprise.
- (b) If the Shakopee Mdewakanton Sioux Community Gaming Commission, in applying the standards adopted in this Ordinance, determines that licensing of the person poses a threat to the public interest or to the effective regulation of gaming, or creates or enhances the dangers of unsuitable, unfair, or illegal practices and methods and activities in the conduct of Gaming, the Shakopee Mdewakanton Sioux Community Gaming Commission shall not license that person in a Key Employee or Primary Management Official position.
- (c) The requirements of this Section shall apply to all members of the Commission, and to any employees, agents or members of committees of the Commission.
- (d) The Commission shall forward sufficient information from the applicants, along with the applicable fees to the Alcohol Gambling Enforcement Division or the National Indian Gaming Commission to conduct a background check to be conducted on an annual basis, commencing with the date of employment.

SECTION 305. REPORT FOR NATIONAL INDIAN GAMING COMMISSION FOR KEY EMPLOYEES AND PRIMARY MANAGEMENT OFFICIALS

Before issuing a Gaming License to any Primary Management Officials or Key Employees, and pursuant to this Section and Chapter 3 of the Community Gaming Regulations, the Community Gaming Commission shall:

- (a) Create and maintain an investigative report on each background investigation.
- (b) Submit a notice of results of the applicant's background investigation to the National Indian Gaming Commission no later than sixty (60) days after the

applicant begins work, and through the appropriate Regional office.

SECTION 306. TEMPORARY EMPLOYMENT AUTHORIZATION

On the basis of the completed License application and any other available information, the Shakopee Mdewakanton Gaming Commission shall make a preliminary finding concerning the eligibility of a Key Employee or a Primary Management Official for a permanent License. If the Commission, in applying the standards adopted in this Ordinance, determines that employment of a person under investigation poses a threat to the public interest or to the effective regulation of Gaming, or creates or enhances the dangers of unsuitable, unfair, or illegal practices and methods and activities in the conduct of gaming, the Commission shall not issue a temporary employment authorization (TEA) to the individual, and a management contractor or a Tribal Gaming operation shall not employ that person in a Key Employee or Primary Management Official position.

If the Commission, after consideration of the appropriate information, judged by the relevant standards as defined in this Ordinance and IGRA, and the rules and regulations promulgated pursuant thereto, determines that the Applicant is sufficiently qualified to apply for a gaming License, the Commission shall issue a TEA. Such authorization shall be good for a period not to exceed ninety (90) days for Primary Management Officials or Key Employees, and sixty (60) days for Non-Key Employees, shall be granted only to identify and monitor the individual Applicant pending a determination by the National Indian Gaming Commission (Primary Management Officials and Key Employees) or the Commission (Non-Key Employees) of the Applicant's eligibility for a permanent License, and is revocable upon completion of the background investigation of the individual applicant if the Shakopee Mdewakanton Sioux Community Gaming Commission determines that the results of the background investigation warrant such revocation. Such TEA, and the privilege of employment which it permits, is in all cases revocable if the National Indian Gaming Commission or the Commission determines the applicant is not eligible for licensing. The individual may begin employment upon receipt of the TEA.

Unless the Commission has received information which would lead to the conclusion that the employee is not eligible for licensure or continued licensure, at the end of the ninety (90) day period for Primary Management Officials or Key Employees and the sixty (60) day period for Non-Key Employees specified herein, the TEA shall become a permanent License upon approval by the Commission which remains subject to revocation if the Licensee omitted required information from their application for a License, has a previously undisclosed criminal violation, or has otherwise engaged in activity or practices which could reasonably lead to the conclusion that the individual poses a threat to the public interest or the effective regulation of gaming, or creates or enhances the danger of unfair, or illegal practices and methods in the conduct of gaming.

SECTION 307. LICENSING REQUIREMENTS AND PROCEDURES FOR PRIMARY MANAGEMENT OFFICIALS AND KEY EMPLOYEES: REVIEW OF NOTICE OF RESULTS

- (a) Upon receipt of a complete notice of results for a Key Employee or Primary

Management Official as required by Section 305 of this Ordinance, the National Indian Gaming Commission has thirty (30) days to request additional information concerning the applicant or licensee and to object.

- (b) If the National Indian Gaming Commission has no objection to issuance of a license, it shall notify the Community Gaming Commission within thirty (30) days of receiving notice of results pursuant to Section 305 of this Ordinance.
- (c) If, within the 30-day period described in paragraph (a) of this section, the National Indian Gaming Commission provides the Community Gaming Commission with a statement itemizing objections to the issuance of a license to a Key Employee or to a Primary Management Official applicant for whom the Commission has provided a notice of results, the Commission shall reconsider the application, taking into account the objections itemized by the Commission. The Commission shall make the final decision whether to issue a license to such applicant.
- (d) If the Commission has issued the license before receiving the Commission's statement of objections, notice and hearing shall be provided to the licensee as pursuant to Section 309.

SECTION 308. GRANTING LICENSES TO KEY EMPLOYEES AND PRIMARY MANAGEMENT OFFICIALS

- (a) After the Commission has provided a notice of results of the background check to the National Indian Gaming Commission, the Commission may license a Primary Management Official or Key Employee.
- (b) Within thirty (30) days after the issuance of the license, the Commission shall notify the National Indian Gaming Commission of its issuance.
- (c) A Gaming Enterprise shall not employ a Key Employee or Primary Management Official who does not have a license after ninety (90) days.
- (d) If the Commission does not license an applicant it shall notify the National Indian Gaming Commission and forward copies of its eligibility determination and notice of results, under Section 305(b) of this Ordinance, to the National Indian Gaming Commission.

SECTION 309. LICENSE SUSPENSION FOR PRIMARY MANAGEMENT OFFICIALS AND KEY EMPLOYEES

If, after the issuance of a Gaming License the Shakopee Mdewakanton Sioux Community Gaming Commission receives reliable information from the National Indian Gaming Commission indicating that an employee is not eligible for continued licensure, the Community Gaming Commission shall:

- (a) Immediately suspend such License and shall notify the Licensee in writing of the

suspension and the proposed revocation;

- (b) The Shakopee Mdewakanton Sioux Community Gaming Commission shall notify the Licensee of a time and a place for a hearing on the proposed revocation of her/his License;
- (c) After a revocation hearing, the Shakopee Mdewakanton Sioux Community Gaming Commission shall decide to revoke or to reinstate a Gaming License. The Shakopee Mdewakanton Sioux Community Gaming Commission shall notify the National Indian Gaming Commission of its decision within forty-five (45) days of receiving notification from the National Indian Gaming Commission.

SECTION 310. NOTICE TO EXISTING KEY EMPLOYEES AND PRIMARY MANAGEMENT OFFICIALS

- (a) The Shakopee Mdewakanton Sioux Community Gaming Commission shall notify existing Key Employees and Primary Management Officials in writing that they shall either:
 - (1) Complete a new application form that contains the Privacy Act notice at Section 303 of this Ordinance; or
 - (2) Sign a statement that contains the Privacy Act notice (at Section 303 of this Ordinance) and consent to the routine uses described in that notice.
- (b) The Shakopee Mdewakanton Sioux Community Gaming Commission shall also notify existing Key Employees and Primary Management Officials that they shall either:
 - (1) Complete a new application form that contains the notice regarding false statements contained in Section 303 of this Ordinance; or
 - (2) Sign a statement that contains the notice regarding false statements (at Section 303 of this Ordinance).

SECTION 311. RETENTION OF APPLICATIONS FOR KEY EMPLOYEES AND PRIMARY MANAGEMENT OFFICIALS OF A GAMING OPERATION

The Shakopee Mdewakanton Sioux Community Gaming Commission shall retain for inspection by the Chairman of the National Indian Gaming Commission or her or his designee for no less than three (3) years from the date of termination of employment:

- (a) Applications for licensing;
- (b) Investigative reports; and
- (c) Eligibility determinations.

SECTION 312. APPLICATION FOR DISTRIBUTORS OF VIDEO GAMES OF CHANCE AND GAMING EQUIPMENT

The License application for any person, organization or entity wishing to sell, lease or otherwise distribute Gaming equipment and/or video games of chance to the Community shall contain the following information:

- (a) The name(s) and mailing address(es) of the person or entity making the application;
- (b) The names and addresses of all Interested Parties (including those with direct or indirect financial interests) and their interest and connection to the applicant;
- (c) The nature of the License applied for; the type of activity to be engaged in under the License;
- (d) Explicit and detailed disclosure of any criminal record, including any delinquent taxes owed to the State of Minnesota, of the applicant, any person involved in the organization, and any Interested Party whose name appears on the application;
- (e) Whether the Applicant has been properly Licensed by the State of Minnesota pursuant to Minnesota Statute section 349.161; or proof of being the holder of a current and valid distributor or manufacturer License from the State of Minnesota, or the State of New Jersey, or the State of Nevada, or the State of South Dakota;
- (f) Whether the Applicant has ever had a distributor or manufacturer License revoked or suspended by the state that issued the license and, if so, the circumstances surrounding the state's action;
- (g) A statement of waiver allowing the Community and the State of Minnesota to conduct a background investigation of the Applicant and any person whose name is required to appear on the application;
- (h) Whether the Applicant or any person whose name is required to appear on the application maintains any involvement in the business of wholesale distribution of alcoholic beverages; and
- (i) Any additional information necessary to allow the Community Gaming Commission or the State of Minnesota to investigate the applicant or any person included on the application.

SECTION 313. MACHINE LICENSES

Any person, organization, or entity applying for a Gaming Enterprise license pursuant to the terms of this Ordinance must obtain from the Shakopee Mdewakanton Sioux Community Gaming Commission an annual non-transferable license for each video game of chance to be placed in a Gaming Enterprise operating under the provisions of this Ordinance.

An application for a License for a video game of chance shall contain the following information:

- (a) The name and address of the Applicant with proof of a current and valid distributor or manufacturer License issued by a state and the Community;
- (b) Identification numbers or codes for each video game of chance placed in a Community Gaming Enterprise, including the manufacturer, the serial number and the model number;
- (c) Proof of approval and certification of the machine by an approved gaming test laboratory or proof that the video game of chance conforms precisely to the exact specifications of the video game of chance prototype tested and approved by the Gaming Test Laboratory;
- (d) All other information as required by the Tribal-State Compact on Video Games of Chance;
- (e) Upon issuance, the Community Gaming Commission shall have attached to each video game of chance licensed under the provisions of this Ordinance, an unremovable identification plate on the exterior cabinet which contains the information as required by the Tribal-State Compact on Video Games of Chance.

SECTION 314. CLASSES OF LICENSES

Upon proper application and approval, the following classes of Licenses or Certificates of Registration may be issued at the discretion of the Community Gaming Commission:

- (a) Class A License for a Gaming Enterprise in which a Gaming operator wishes to conduct Class II or Class III lawful gaming at a Community Gaming Enterprise; the License shall be site specific, valid for a period of one (1) year and shall have an application fee as determined by the Commission.
- (b) Class B License (Key Employee License) to any Management Official or Key Employee of either a Gaming operator or the Community; the License shall be valid for a period of one (1) year and shall have an application fee as determined by the Commission.
- (c) Class B-1 License (Non-Key Employee License) to any other employee, not licensed as a Management Official or Key Employee, of a Gaming operator or the Community, employed in a Gaming Enterprise licensed under the provisions of this Ordinance; the License shall be valid for a period of one (1) year and shall have an application fee as determined by the Commission.
- (d) Class C License to any vendor of Gaming Products or Services to be used in a Community Gaming Enterprise; the License shall be valid for a period of one (1) year and shall have an application fee as determined by the Commission.
- (e) Class D license for each Video Game of Chance/Slot Machine to be used in a

Community Gaming Enterprise; the License shall be valid for a period of one (1) year and shall have the fee as determined by the Commission.

- (f) Class E License to any Consultant engaged to advise the Gaming Enterprise. All Consultants must undergo a background investigation and be granted a License by the Commission before a Consultant may begin work and before any monies are paid for services. The License shall be valid for a period of one (1) year.
- (g) A Certificate of Registration shall be issued to all vendors of Non-Gaming Products or Services not otherwise required to be licensed by this Ordinance or the Community Gaming Regulations. If, after registration, it is determined that the vendor is required to be licensed by the Ordinance or this Regulation, then the original registration fee shall be applied towards the License fee charged. State and Federal entities, utility companies, and any other Non-Gaming vendors the Commission deems suitable, shall not be assessed a registration fee. The Certificate of Registration shall be valid for a period of one (1) year.
- (h) The Gaming Commission may revise the fees for each class of license subsequent to an annual review and public hearing. Fees shall not be reviewed more frequently than on an annual basis. The determination of the Commission shall be final.
- (i) Additional license classes or registration requirements may be enacted by the Commission pursuant to Section 205(j)(1) of this Ordinance.
- (j) All License application fees for gaming employees shall be paid by employer.

SECTION 315. REIMBURSEMENT FOR COSTS OF INVESTIGATION

The Commission shall assess a reasonable fee at the time of application for all Licenses. If additional extraordinary investigation is necessary to determine whether the Applicant is properly qualified for a License, the Commission may require an additional fee, not to exceed the cost of the original fee.

SECTION 316. FRAUD ON APPLICATION

It shall be unlawful for any Applicant to lie or willfully deceive in the submission of a License application. The penalty for fraud on application is revocation of the License following a hearing pursuant to Section 209. The penalty also includes relevant sanctions pursuant to Section 214 and 215 of this Ordinance.

SECTION 317. EXEMPTIONS

The following activities are not public Gaming operations under the terms of this Ordinance and, therefore, do not require a License under this title:

- (a) Gaming in which no cash or valuable prizes are won, other than "points" for cumulative competitive ratings or "places" for immediate competitive rankings, is

not subject to the provisions of this Ordinance.

- (b) Social gaming (other than Bingo) conducted by a non-profit organization for prizes of minimal value (less than \$100 in fair market value) is not subject to the provisions of this Ordinance.
- (c) Traditional Indian Gaming activities, in the nature of hand games, are not subject to the provisions of this Ordinance. The Community Gaming Commission is hereby authorized to determine on a case-by-case basis, upon request, whether a particular traditional gaming activity qualifies for the exemption.

SECTION 318. LICENSE RENEWAL

Every Licensee intending to continue engaging in public Gaming activities within the Shakopee Mdewakanton Sioux Community Reservation during the next calendar year shall apply to the Community Gaming Commission for renewal of the license at least sixty (60) days prior to the end of the previous License period.

SECTION 319. LICENSE DISPLAY

Every Licensed Gaming Operator shall display in a prominent place a current and valid Shakopee Mdewakanton Sioux Community License for that location.

SECTION 320. REQUIREMENTS TO MAINTAIN LICENSE

The following requirements must be met to maintain a valid Gaming License granted pursuant to this Ordinance:

- (a) When a Licensee changes a location of public Gaming activities within the Shakopee Mdewakanton Sioux Community Reservation, the Commission shall, after notification by the Licensee of such change, issue a corrected License for the balance of the current period reflecting the new address upon reasonable proof of change of address and without imposition of an additional License fee.
- (b) It shall be unlawful for any Licensee to fail to notify the Commission of any new prospective Key Employee, Primary Management Official, new ancillary contractor, or new operator. The Community Gaming Commission shall investigate and provide approval or disapproval of the new Key Employee, Primary Management Official, contractor, or operator within thirty (30) days. Any information received by the Commission shall be confidential, and shall be disclosed only in accordance with the provisions of this Ordinance, and the Privacy Act of 1974 and 25 U.S.C. 2701 *et seq.*
- (c) It shall be unlawful for any Licensee to begin the employment of a new Key Employee or Primary Management Official, begin the performance of any new contract, or continue to conduct Gaming under the control of any new operator without the approval of the Community Gaming Commission.

- (d) It shall be unlawful for any person to possess a firearm or dangerous weapon on a premise where licensed gaming is allowed, with the exception of firearms possessed by duly authorized peace officers.
- (e) It shall be unlawful for a Licensee to engage in pawnbroking or to take goods or materials in hock or to lend money or engage in similar activity with persons for the purposes of enabling that person to gamble.
- (f) A Licensee is required to, during normal business hours, maintain his or her premises open for inspection by the Shakopee Mdewakanton Sioux Community Gaming Commission or its agents, or any other authorized governmental agency, and to keep its books and financial records open for similar inspection.
- (g) Licensed Gaming Operators and Tribal Gaming Operators must produce, if possible, at a player's request, losing tickets, copies of canceled checks or other evidence of loss acceptable to the Internal Revenue Service if requested by the player or contestant at the time the player or contestant buys a ticket or chance or otherwise enters the game.
- (h) Each licensed Gaming Enterprise shall submit or make available to the Commission each month, financial information and operating statistics for the previous month's operations.
 - (1) The information to be provided or made available to the Commission shall include, but not be limited to the following: a balance sheet, income statement, budget to actual and to previous period, board minutes, bank statements and reconciliations, the monthly prize payout report, payroll and personnel files and reports, all cash disbursements, drop, payout and win and hold amounts and hold percentages for all gaming departments and internal audit reports.
 - (2) The Certified Public Accountant retained by the Gaming Commission will review and analyze the information provided and prepare a report in accordance with the American Institute of Certified Public Accountants Agreed Upon Procedures standards.
 - (3) The report will be signed under oath, by the Certified Public Accountant, selected and retained by the Commission. The report shall contain all information determined by the Commission and the Certified Public Accountant as necessary to determine and ensure compliance by the Gaming Enterprise with the provisions of this Ordinance or any other applicable law.
 - (4) The report will be made available to the Business Council upon request. Members of the General Council who wish to examine the report may do so during normal business hours of the Gaming Commission.
- (i) The licensed premises shall be open to inspection by the Commission or its agents

at all times during the regular business hours.

- (j) There shall in all cases be a first hiring preference for Community members, and a second hiring preference for Native Americans.
- (k) There shall be no discrimination in operations conducted under the Gaming License by reason of race, color, creed, or gender preference.

SECTION 321. FEES

Each application for an initial or renewal License shall be accompanied by payment of the required fee pursuant to Section 314 herein. The Gaming Commission's imposition of the License fee properly owed under this Ordinance shall be final. This fee is imposed for the revocable privilege of being licensed to engage in public Gaming activities within the jurisdiction of the Community.

SECTION 322. PAYMENT OF LICENSE FEES

All License fees collected under authority of the Gaming Ordinance shall be paid to the Secretary/Treasurer of the Community and the Secretary/Treasurer shall place them in a separate account to be applied to expenses incurred by the Commission from the enforcement of this Ordinance.

SECTION 323. NON-TRANSFERABILITY

The License issued pursuant to the provisions of this Ordinance is valid only for the person(s) or organization(s) at the place of business shown on the face thereof. It is not assignable or otherwise transferable to any other person or organization or for any other location without the written approval of the Community Gaming Commission.

SECTION 324. LICENSE AS A REVOCABLE PRIVILEGE

Maintaining a License is a revocable privilege, and no holder thereof shall be deemed to have a part in any vested rights therein or thereunder. The burden of proving qualifications to hold any License rests at all times on the Licensee. The Gaming Commission is charged by law with the duty of continually observing the conduct of all Licensees to the end that Licenses shall not be held by unqualified or disqualified persons or unsuitable person or persons whose operations are conducted in an unsuitable manner.

SECTION 325. ANNUAL LICENSE REVIEW

The Commission shall undertake a review of all Licenses, whether that License be of a facility, place, operation, person, Primary Management Official, or Key Employee, which review shall be comparable to that required for initial employment, and which shall take place annually commencing with the anniversary date of employment. This review shall be undertaken in a manner which ensures compliance with the provisions of the Tribal-State Compacts on Gaming, and shall be subject to the same requirements, restrictions, and limitations governing use as is the initial license application and background investigation conducted in conjunction with the initial

licensure.

SECTION 326. COMMISSION MAY WAIVE CERTAIN REQUIREMENTS

The Commission shall have the authority to waive the requirement that Applicants for licensing under the provisions of this Ordinance have no felony convictions. The Commission may waive the requirements where the Commission makes a determination that the Applicant has fulfilled the requirements of the sentence imposed by the Court which exercised jurisdiction over the case, and where the felony is not gaming related, the Applicant does not pose a threat to the integrity of gaming, the welfare or safety of the Community or its guests, and where a period of time has elapsed with no further violations of the law, which period would lead to the reasonable inference that the person intends to abide by the law and be a responsible member of society.

The Commission shall not be permitted to waive the no felony requirement in those cases where the individual applicant was found guilty of a felony which was committed against an Indian Tribe, a Tribal government, or a Tribal entity.

The Commission may consider as a basis for License denial only those misdemeanors relating to theft, and may not consider as a basis for License denial those misdemeanors relating to writing checks drawn on an account which contained insufficient funds, unless the frequency and amount of such activity indicates to the Commission that the individual engaging in the activity has a flagrant disregard for financial accountability which might render them unsuited for Licensure. The Commission shall in no case consider misdemeanors relating to minor traffic violations as a basis for License denial.

TITLE IV. RULES OF GENERAL APPLICABILITY

SECTION 400. RULES OF GAMING OPERATION

Each Licensee operating a Gaming Enterprise under a License issued pursuant the provisions of this Ordinance shall prominently display in writing all rules pertaining to Gaming activity, including but not limited to Traditional Bingo, other games of chance, Video Games of Chance, and Blackjack, near the specific location where such Gaming activity is conducted; or shall make available a written list of all such rules to any person making a request for such.

Each Gaming Operator Licensed under the provisions of this Ordinance shall utilize Gaming rules that are in compliance with the laws of the Community, the State of Minnesota, and the United States of America, any Compact and specifically the Indian Gaming Regulatory Act of 1988 and any applicable regulations promulgated by the National Indian Gaming Commission.

SECTION 401. VIDEO GAMES OF CHANCE

The following requirements shall apply to management and conduct of all Video Games of Chance within any Gaming Enterprise licensed pursuant to the provisions of this Ordinance.

- (a) No gaming enterprise may own, lease, or operate Video Games of Chance that have been manufactured by a manufacturer who has not received a License from the Community Gaming Commission pursuant to the provisions of Title III of this Ordinance. The Community Gaming Commission shall issue Licenses to manufacturers of Video Games of Chance holding a valid License from the State of Minnesota, or the State of New Jersey, or the State of Nevada, or the State of South Dakota.
- (b) No gaming enterprise may own, lease, or operate Video Games of Chance that have been distributed by a distributor that has not received a License from the Commission pursuant to the provisions in Title III of this Ordinance. The Gaming Commission shall issue Licenses to distributors of Video Games of Chance holding a valid License from the State of Minnesota, or the State of New Jersey, or the State of Nevada, or the State of South Dakota.
- (c) In the event that the State of Minnesota, or the State of New Jersey, or the State of Nevada, or the State of South Dakota, suspends, revokes, or refuses to renew a License of a manufacturer or distributor of Video Games of Chance similarly licensed by the Commission, such action may be grounds for similar action by the Commission, which shall suspend, revoke, or refuse to renew the License issued by the Commission to such manufacturer or distributor.
- (d) No Video Game of Chance may be purchased, leased or otherwise acquired by a Gaming Enterprise unless:
 - (1) The Video Game of Chance is purchased, leased, or acquired from a manufacturer or distributor licensed to sell, lease, or distribute Video Games of Chance by the Community Gaming Commission pursuant to the provisions of this Ordinance; and

- (2) The Video Game of Chance, or a prototype thereof, has been tested, approved or certified by a Gaming Test Laboratory as meeting all requirements and standards of the Tribal-State Compact on Video Games of Chance or other Compacts and applicable Federal laws or regulations.
- (e) Any Gaming activity involving Video Games of Chance shall be conducted in strict compliance with the Tribal/State Compact on Video Games of Chance.

SECTION 402. RESTRICTIONS FOR GAMING ENTERPRISES

Each Licensee operating a Gaming Enterprise under a License issued pursuant to the provisions of this Ordinance must at all times observe the following restrictions on Gaming activities:

- (a) Except as herein provided, no person shall be extended credit for Gaming by any Gaming Enterprise. This restriction shall not apply to credits won by players who activate play on video games of chance after inserting coins or currency into the game, and shall not restrict the right of a Gaming Enterprise to offer check cashing or to install or accept bank card or credit card transactions in the same manner as would be normally permitted at any retail business within the State of Minnesota.
- (b) No person below the age of eighteen (18) years on the date of Gaming shall knowingly be permitted to participate in the Gaming in any Gaming Enterprise licensed under the provisions of this Ordinance. If any person below the age of eighteen (18) years plays and otherwise qualifies to win any prize, the prize shall not be paid, and in all cases, upon demand, the estimated amount wagered during the course of any game played by such person shall be returned to the player.
- (c) No Gaming Enterprise shall allow to be sold or otherwise made available any beverage containing alcohol including, but not limited to, beer or liquor at the Gaming Enterprise location without the authorization of the Shakopee Mdewakanton Sioux Community as evidenced by a duly adopted Liquor Ordinance which Ordinance shall be certified by the Secretary of the Interior and published in the Federal Register.
- (d) No firearms or air guns which are capable of discharging dangerous projectiles or gases including, but not limited to, "bb's" or CO² guns, rifles, shotguns, pistols, or revolvers, shall be allowed on the premises except as permitted for security by an employed security force or other city, state, or federal law enforcement officers in the course of their official duties.

TITLE V. INDIAN GAMING REGULATORY ACT

SECTION 500. POLICY

It shall be the policy of the Community to fully comply with all applicable U.S. federal law, to include the provisions of the Indian Gaming Regulatory Act (25 U.S.C. section 2701 *et seq.*), and to comply with all applicable State law as defined in the Tribal-State Compact on Video Games of Chance, the Tribal-State Compact on Blackjack, and other Compacts, if any, in the conduct of all gaming activity within the jurisdiction of the Community.

SECTION 501. PROPRIETARY INTEREST

The Shakopee Mdewakanton Sioux Community shall have the sole proprietary interest and responsibility for the conduct of any gaming activity, whether Class II or Class III, as those terms are defined by the Indian Gaming Regulatory Act of 1988, 25 U.S.C. 2703(7),(8), within the jurisdiction of the Community.

SECTION 502. NET REVENUES

Net revenues derived from Gaming activity shall be utilized for the following purposes:

- (a) To fund Community government operations or programs;
- (b) To provide for the general welfare of the Community and its members;
- (c) To promote Community economic development;
- (d) To donate to charitable organizations; or
- (e) To help fund operations of local government agencies.

SECTION 503. PER CAPITA PAYMENTS

Net revenues from any Community licensed Gaming activity may be used to make per capita payments to Community members pursuant to the requirements of Tribal law, the Indian Gaming Regulatory Act, the plan approved by the Secretary of the Interior under 25 U.S.C. 2710(b)(3), and any other applicable law.

SECTION 504. CONTRACTS

All contracts for supplies, services, or concessions for a contract amount in excess of Twenty-five Thousand Dollars (\$25,000.00) annually (except for contracts for professional legal or accounting services) relating to Class II and Class III gaming (as defined by the Indian Gaming Regulatory Act, 25 U.S.C. section 2703) shall be subject to the outside independent audits provided for in Title II, Section 206(i) of this Ordinance.

SECTION 505. INDIVIDUALLY OWNED GAMING

No Licenses will be issued to allow the operation of individually owned Gaming Establishments.

SECTION 506. TRIBAL SELF-REGULATION

It is the intent of the Community to request a hearing before the National Indian Gaming Commission for the issuance of a certificate of self-regulation. In anticipation of being self-regulating, the Community ensures that it will:

- (a) conduct its Gaming activity in a manner which:
 - (1) Has resulted, and will continue to result, in an effective and honest accounting of all revenues;
 - (2) Has resulted, and will continue to result in, a reputation for safe, fair, and honest operation of the activity; and
 - (3) Has been, and will continue to be, generally free of evidence of criminal or dishonest activity;
- (b) Adopt and implement adequate systems for:
 - (1) Accounting for all revenues from licensed Gaming activity;
 - (2) Investigation, licensing, and monitoring of all employees of the gaming activity; and
 - (3) Investigation, enforcement and prosecution of violations of this Ordinance and regulations; and
- (c) Conduct all Gaming operations on a fiscally and economically sound basis.

SECTION 507. MANAGEMENT AGREEMENTS

All management agreements entered into by the Community, if any, shall comply with the applicable provisions of the Indian Gaming Regulatory Act, 25 U.S.C. §2711.

SECTION 508. INTERNAL REVENUE CODE

All applicable Internal Revenue Code provisions concerning reporting and withholding of taxes with respect to the winnings from gaming shall be adhered to.