MAR 28 2006

VIA FACSIMILE & REGULAR MAIL

Sheldon Wolfchild, President
Lower Sioux Indian Community
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Morton, Minnesota 56270
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Steven D. Sandven Law Offices
General Counsel, LSIC
300 North Dakota Avenue, Suite 106
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Re: Gaming Ordinance of the Lower Sioux Indian Community

Dear President Wolfchild and Ms. Doefler:

This letter is in response to the your request for the National Indian Gaming Commission (NIGC) to review and approve the revised Gaming Ordinance for the Lower Sioux Indian Community, enacted pursuant to Resolution Number 06-39 on March 16, 2006, and received by the NIGC on March 17, 2006. This letter constitutes such approval under the Indian Gaming Regulatory Act (IGRA). It is important to note that the gaming ordinance is approved for gaming only on Indian lands, as defined in the IGRA, over which the Tribe has jurisdiction.

Thank you for submitting the ordinance for review and approval. The NIGC staff and I look forward to working with you and the Lower Sioux Indian Community on future gaming issues.

Sincerely,

Philip N. Hogen
Chairman

MAR 17 2006

**Lower Sioux Indian Community**
P.O. Box 308 • 39527 Res. Hwy. 1
Morton, Minnesota 56270

**LOWER SIOUX COMMUNITY COUNCIL**
**RESOLUTION NO. _**
**06-39**

**Submission of Revised Gaming Ordinance to National Indian Gaming Commission**

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WHEREAS, The Lower Sioux Indian Community is a duly organized and federally-recognized Indian Tribe and has Constitution and By-Laws as approved by the Secretary of the Interior; and,

WHEREAS, The Constitution and By-laws of the Lower Sioux Indian Community in Minnesota ARTICLE V - POWERS Section 1 provides, that the Tribe shall be governed by the Community Council pursuant to its enumerated authorities; and

WHEREAS, On November 11, 1993, the Lower Sioux Community Council adopted, and the Chairman of the National Indian Gaming Commission, acting under the authority of the Indian Gaming Regulatory Act of 1988, 25 U.S.C. §2710(b)(1)(B), subsequently approved the Lower Sioux Indian Community Gaming Ordinance; and

WHEREAS, The attached proposed Amended Gaming Ordinance promotes safeguards in the following sections to prevent the misappropriation of gaming revenues: (1) Section V – use of gaming revenue; (2) Section VI – minimum qualifications for the management board of directors; (3) Section VII – independence of the Tribal gaming commission and clearly delineated authorities; (4) VIII – code of ethics that applies to both the Tribal gaming commission and the management board of directors; and (5) XIII – clearly delineated licensing criteria for key employees and primary management officials; and

WHEREAS, On December 15, 2005, pursuant to a Community Council directive General Counsel submitted a draft gaming ordinance to the National Indian Gaming Commission for an informal review; and

WHEREAS, The Community Council has reviewed the recommendations of the National Indian Gaming Commission and has incorporated same into the amended gaming ordinance; and

WHEREAS, On March 9, 2006, the Community Council passed Resolution No. 06-23 authorizing submission of the Amended Gaming Ordinance that incorporated the recommendations of the NIGC; and

WHEREAS, On March 9, 2006, the Amended Gaming Ordinance and Resolution No. 06-23 were forwarded to the NIGC for approval; and

WHEREAS, After further review, the NIGC has determined that an additional revision is required subsequent to their approval; and

NOW, THEREFORE BE IT RESOLVED, The Community Council hereby authorizes submission of the attached proposed Amended Gaming Ordinance (incorporated herein) to the National Indian Gaming Commission for approval pursuant to the Indian Gaming Regulatory Act, 25 U.S.C. § 2701 et seq.

**CERTIFICATION**

I certify that Resolution No. 06-39 was duly adopted by the Lower Sioux Community Council at a meeting held on the 16th day of March, 2006, a quorum being present by a vote of 5 in favor, 0 opposed, and 0 abstaining.

Shannon Blue, Secretary

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ORDINANCE NO. ___

# LOWER SIOUX INDIAN COMMUNITY GAMING ORDINANCE

## I. Purpose

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

## II. Definitions

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

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

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

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

a. the game of chance commonly known as bingo (whether or not electronic, computer, or other technologic aids are used in connection therewith):

i. which is played for prizes, including monetary prizes, with cards bearing numbers or other designations,

ii. in which the holder of the card covers such numbers or designations when objects, similarly numbered or designated, are drawn or electronically determined, and

iii. in which the game is won by the first person covering a previously designated arrangement of numbers or designations on such cards, including (if played in the same location) pull-tabs, lotto, punch boards, tip jars, instant bingo, and other games similar to bingo, and

b. card games that;

i. are explicitly authorized by the laws of the State, or

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

c. The term "class II gaming" does not include:

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

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

D. **Class III gaming** means all forms of gaming that are not class I gaming or class II gaming.

E. **Commission** means the Tribal Gaming Commission established to perform regulatory oversight and to monitor compliance with Tribal, federal, and applicable State regulations.

F. **Commissioner** means a Tribal Gaming Commissioner.

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

H. **Complimentary** means a service or item provided at no cost, or at a reduced cost, to a customer.

I. **Directly related to** means a spouse, child, parent, grandparent, and grandchild.

J. **Director** means a Member of the Tribal Gaming Board of Directors.

K. **Indian lands** means

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

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

L. **Indian Tribe** means the Lower Sioux Indian Community.

M. **Key Employee** means

a. A person who performs one or more of the following functions:

i. Bingo caller;

ii. Counting room supervisor;

iii. Chief of security;

iv. Custodian of gaming supplies or cash;

v. Floor manager;

vi. Pit boss;

vii. Dealer;

viii. Croupier;

ix. Approver of credit; or

x. Custodian of gambling devices including persons with access to cash and accounting records within such devices;

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

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

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

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

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

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

P. **Primary Management Official** means

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

b. Any person who has authority:

i. To hire and fire employees; or

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

c. The chief financial officer or other person who has financial management responsibility.

III. Gaming Authorized

Class II and Class III gaming are hereby authorized.

IV. Ownership

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

V. Use of Gaming Revenue

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

a. to fund tribal government operations and programs;

b. to provide for the general welfare of the Tribe and its members;

c. to promote tribal economic development;

d. to donate to charitable organizations; or

e. to help fund operations of local government agencies.

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

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

## VI. Board of Directors

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

B. The Board of Directors shall consist of three (3) members; a Chairperson, Vice-Chairperson, and Director. Terms of office for members of the Tribal Gaming Board of Directors shall be as follows: the Chairperson shall serve an initial term of one year, with subsequent Chairpersons serving three-year terms. The Vice-Chairperson and other Director(s) shall serve an initial term of two years, with subsequent Vice-Chairpersons and Directors serving three-year terms. The members of the Board shall be subject to the same background requirements as key employees and primary management officials, and must be licensed accordingly. The minimum requirements for appointment as a member of the Board of Directors are as follows:

a. One of the following:

i. Degree in Business Administration, Accounting, Marketing, or an equivalent field;

ii. Minimum five (5) years experience in business management;

iii. Minimum two (2) years experience in casino management; or

iv. Demonstrated knowledge of federal Indian law, the Indian Gaming Regulatory Act, and related statutes and regulations.

C. The Board of Directors shall perform the following duties:

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

ii. Inspect and examine on a periodic basis all books, records, and papers of the gaming facility;

iii. Approve hours of operation for the gaming facility;

iv. Approve wager limits;

v. Approve marketing plans;

vi. Approve policies regarding interviews, selection, and training of the gaming operation employees;

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

viii. Approve an annual operating budget, subject to Community Council approval;

ix. Any other duties necessary to monitor and oversee the policies of the gaming operation.

D. Board of Director positions shall be filled through appointment by the Community Council.

E. The Community recognizes the importance of an independent Tribal Gaming Board of Directors maintaining a well-managed gaming operation. To avoid potential conflicts of interest between the operation and regulation of the gaming facility, the Community hereby finds that, at a minimum:

a. No more than one member of the Community Council may serve on the Board of Directors. No member of the Tribal Gaming Commission may serve on the Board of Directors;

b. No person directly related to or living with a Tribal Gaming Commissioner may serve on the Board of Directors;

c. Members of the Board of Directors are prohibited from gambling in the facility; and

d. Members of the Board of Directors are prohibited from accepting complimentary items from the gaming operation.

G. Members of the Board of Directors may be removed from office by the Community Council prior to the expiration of their respective terms only for neglect of duty, misconduct, malfeasance, or other acts that would render the Director unqualified for the position. When the Community Council believes that removal is appropriate, it shall so notify the Director(s) and hold a hearing on the matter. Directors may appeal their removal to the Community Council, and may provide evidence rebutting the grounds for their removal. A vote of the Community Council on the validity of the removal shall be final and not subject to further appeal. A wrongful removal shall entitle the affected

Director to compensation for expenses incurred in appealing the wrongful removal, and shall entitle the Director to any pay withheld.

H. Members of the Tribal Gaming Board of Directors shall be compensated at a level determined by the Community Council.

VII. Gaming Commission

A. The Community hereby establishes a Tribal Gaming Commission whose duty it is to regulate tribal gaming operations. The Tribal Gaming Commission shall consist of at least three (3) but not more than five (5) members. There shall be among them a Chairperson, Vice-Chairperson, and at least one additional Commissioner.

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

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

a. No member of the Community Council or Tribal Gaming Board of Directors may serve on the Gaming Commission;

b. No member directly related to or living with any Community Council member or Tribal Gaming Board of Directors member may serve on the Gaming Commission;

c. Members of the Gaming Commission are prohibited from gambling in the facility; and

d. Members of the Gaming Commission are prohibited from accepting complimentary items from the gaming operation.

D. Tribal Gaming Commissioner positions shall be filled through appointment by the Community Council.

E. Nominees for positions of Tribal Gaming Commissioner must satisfy suitability standards set forth for key employees and primary management officials, found in Section XIII of

this Ordinance. Such background investigations shall be performed under the direction of the Community Council or designated official.

F. The Tribal Gaming Commission shall:

a. Conduct or cause background investigations to be conducted on, at a minimum, primary management officials and key employees;

b. Review and approve all investigative work conducted;

c. Report results of background investigations to the NIGC;

d Obtain and process fingerprints, or designate a law enforcement agency to obtain and process fingerprints;

e. Make suitability determinations, which shall be signed by the Chairperson of the Gaming Commission;

f. Issue gaming licenses to management officials and employees of the operation, consistent with the suitability determination;

g. Inspect, examine and monitor all gaming activities, and have immediate access to review, inspect, examine, photocopy and audit all records of the gaming establishment;

h. Ensure compliance with all Tribal, State, and Federal laws, rules, and regulations regarding Indian gaming;

i. Investigate any suspicion of wrongdoing associated with any gaming activities;

j. Hold hearings on patron and/or employee complaints, in compliance with procedures established in the gaming ordinance and other Tribal gaming regulations;

k. Comply with any and all reporting requirements under the IGRA, Tribal-State compact to which the Community is a party, and any other applicable law;

l. Promulgate and issue regulations necessary to comply with the Community and the NIGC's Minimum Internal Control Standards (MICS);

m. Promulgate and issue regulations on the levying of fees and/or taxes associated with gaming license applications;

n. Promulgate and issue regulations on the levying of fines and/or suspension or revocation of gaming licenses for violations of the gaming ordinance, or any other Tribal, Federal, or State, if applicable, gaming regulations; and

o. Perform such other duties the Commission deems appropriate for the proper regulation of the Tribal gaming operation.

G. The Gaming Commission shall ensure that all records and information obtained as a result of all employee background investigations shall remain confidential and shall not be disclosed to persons who are not directly involved in the licensing process. Under no

circumstances shall information obtained during the course of an employee background investigation be disclosed to members of management, human resource personnel or others employed by the tribal gaming operation.

This Section does not apply to requests for such information or records from any Tribal, Federal or State law enforcement or regulatory agency, or for the use of such information or records by the Commission and staff in the performance of their official duties.

H. Terms of Office for Tribal Gaming Commissioners shall be as follows: the Chair shall serve an initial term of one year, with subsequent Chairs serving three-year terms. The Vice Chair and Commissioner(s) shall serve an initial term of two years, with subsequent Vice-Chairs and Commissioners serving three-year terms.

I. The following persons are not eligible to serve as Tribal Gaming Commissioners: Community Council members, while serving as such; employees of the gaming operation, while serving as such; gaming contractors (including any principal of a management or other contracting company); persons directly related to or sharing a residence with any of the above; persons ineligible to be key employees or primary management officials. Tribal members previously convicted of a felony, of embezzlement, of theft, or of any other money-related crime or honesty-related crime (such as fraud) will only be allowed if the Community Council specifically finds a significant amount of time has passed and that the person's character has been reformed. The Community Council shall require a criminal history check with appropriate law enforcement agencies and shall review this criminal history report and make an appropriate suitability determination before appointing an individual in a position as a Tribal Gaming Commissioner.

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

K A majority of the Commission shall constitute a quorum. The concurrence of a majority of the members appointed to the Commission shall be required for any final determination by the Commission. The Commission may act in its official capacity even if there are vacancies on the Commission.

L. Tribal Gaming Commissioners shall be compensated at a level determined by the Community Council. This compensation shall be included in the gaming operation's annual estimated budget, and shall be approved by the Community Council. Commissioner compensation shall not be based on a percentage of gaming revenue to ensure the Commission is not improperly influenced.

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

VIII. Ethics

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

a. Members shall not hold financial interests that conflict with the conscientious performance of their duties as managers and regulators.

b. Members shall not engage in financial transactions using nonpublic information or allow the improper use of such information by others on their behalf to further any private interest.

c. Members shall not solicit or accept any gift or other item of monetary value, including complimentary items (see Section IX, below), from any person or entity seeking official action or inaction from, doing business with, or conducting activities regulated by the member's organization, or whose interests may be substantially affected by the performance or nonperformance of the Members' duties.

d. Members shall make no unauthorized commitments or promises of any kind purporting to bind the Community.

e. Members shall not use their positions for private gain.

f. Members shall act impartially, in accordance with all relevant Tribal, Federal, and State laws (where applicable), and shall not give preferential treatment to any private organization or individual, including to any persons related to Members.

g. Members shall ensure that Tribal property and gaming assets shall be properly segregated and safeguarded, and that such property and assets shall not be used for unauthorized activities.

h Members shall not engage in outside employment or activities, including seeking or negotiating for future employment, which conflict with their official duties and responsibilities.

i. Members shall disclose waste, fraud, abuse, and corruption to appropriate authorities.

j. Members shall endeavor to avoid any actions creating the appearance that they are violating the law or the ethical standards listed herein.

IX. Complimentary Items

A. The use of complimentary items shall be governed by regulations established by the Tribal Gaming Commission, which shall be in accord with the NIGC's Minimum Internal Control Standards, found at 25 C.F.R. § 542.17.

B. No Key Employee, Primary Management Official, Community Council member, member of the Gaming Board of Directors or Tribal Gaming Commission or any person directly related to or sharing a residence with the persons, shall be authorized to receive complimentary items.

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

X. Audit

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

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

XI. Environment and Public Health and Safety

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

XII. Dispute Resolution

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

XIII. Licenses for Key Employees and Primary Management Officials

A. Scope.

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

B. Application Forms

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

In compliance with the Privacy Act of 1974, the following information is provided: Solicitation of the information on this form is authorized by 25 U.S.C. 2701 *et seq*. The purpose of the requested information is to determine the eligibility of individuals to be employed in a gaming operation. The information will be used by the Tribe and the National Indian Gaming Commission members and staff who have need for the information in the performance of their official duties. The information may be disclosed to appropriate Federal, Tribal, State, local, or foreign law enforcement and regulatory agencies when relevant to civil, criminal or regulatory investigations or prosecutions or when necessary pursuant to a requirement by a Tribe or the National Indian Gaming Commission in connection with the hiring or firing of an employee, the issuance or revocation of a gaming license, or investigation of activities while associated with a Tribe or a gaming operation. Failure to consent to the disclosures indicated in this notice will result in a Tribe being unable to hire you in a primary management official or key employee position.

The disclosure of your Social Security Number (SSN) is voluntary. However, failure to supply a SSN may result in errors in processing your application.

b. The following additional notice shall be placed on the application form for a key employee or a primary official: "A false statement on any part of your application may be grounds for not hiring you, or for firing you after you begin work. Also, you may be punished by fine or imprisonment. (U.S. Code, Title18, section 1001).

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

   i. Complete a new application form that contains both the Privacy Act and false statement notices; or

   ii. Sign a statement that contains the Privacy Act and false statement notices and consent to the routine uses described in that notice.

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

C. <u>Background Investigations</u>

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

b. According to the terms of a Memorandum of Understanding currently in effect, the National Indian Gaming Commission shall run the fingerprints, generate reports and provide the results to the Tribal Gaming Commission.

c. The Tribal Gaming Commission shall request from each primary management official and from each key employee all of the following information:

i. Full name, other names used (oral or written), social security number(s), birth date, place of birth, citizenship, gender, and languages (spoken or written);

ii. Currently and for the previous five (5) years: business and employment positions held, ownership interests in those businesses, business and residence addresses, and drivers' license numbers;

iii. The names and current addresses of at least three personal references, including one personal reference that was acquainted with the applicant during each period of residence listed on the application;

iv. Current business and residence telephone numbers;

v. A description of any existing and previous business relationships with Indian Tribes, including ownership interests in those businesses;

vi. A description of any existing and previous business relationships with the gaming industry generally, including ownership interest in those businesses;

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

viii. For each felony for which there was an ongoing prosecution or a conviction, the charge, the name and address of the court involved and the date and disposition if any;

ix. For each misdemeanor conviction or ongoing misdemeanor prosecution (excluding minor traffic violations) within ten (10) years of the date of the application, the name and address of the court involved and the date and disposition;

x. For each criminal charge (excluding minor traffic charges), whether or not there is a conviction, if such criminal charge is within ten (10) years of the date of the application and is not otherwise listed pursuant to paragraph (a)(viii) or (a)(ix) of this section, the criminal charge, the name and address of the court involved and the date and disposition;

xi. The name and address of any licensing or regulatory agency with which the person has filed an application for an occupational license or permit, whether or not such license or permit was granted;

xii. A photograph taken within the last year; and

xiii. Any other information the Community deems relevant.

d. Each applicant for a Key Employee or Primary Management official shall be required to have fingerprints taken by the Tribal Gaming Commission as part of the license application procedure.

e. As part of its review procedure, the Tribal Gaming Commission or its authorized agent shall conduct a background investigation on each applicant sufficient to allow the Tribal Gaming Commission to make an eligibility determination under subsection D below. The investigator shall:

i. Verify the applicant's identity through items such as a social security card, driver's license, birth certificate or passport;

ii. Contact each personal and business reference provided in the license application, when possible;

iii. Obtain a personal credit check;

iv. Conduct a civil history check;

v. Conduct a criminal history check via the submission of the applicant's fingerprints to the NIGC which shall include a criminal check of the history and information maintained by the Federal Bureau of Investigation, and further obtain information from the appropriate court regarding past felony and/or misdemeanor convictions and criminal charges;

vi. Inquire into any previous or existing business relationships with the gaming industry and Indian tribes by contacting the entities or tribes;

vii. Verify the applicant's history and status with any licensing agency by contacting the agency; and

viii. Take other appropriate steps to verify the accuracy of the information, focusing on problem areas noted.

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

g. The Tribal Gaming Commission and its investigator shall promise to keep confidential the identity of each person interviewed in the course of the investigation, other than disclosure as required under Federal, Tribal, or State law.

D. Eligibility Determination

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

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

a. When a key employee or primary management official is employed to work at a gaming operation authorized by this ordinance, the Commission shall forward to the National Indian Gaming Commission a completed application for employment and conduct the background investigation and make the determination referred to in subsection D of this section.

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

F. Report to the National Indian Gaming Commission.

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

i. Steps taken in conducting a background investigation;

ii. Results obtained;

iii Conclusions reached; and

iv. The bases for those conclusions.

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

c. The Commission shall submit, with the investigative report, a copy of the eligibility determination, unless the N1GC shall have advised the Community that the submission of the eligibility determination is not necessary. This determination shall include a Statement describing how the information submitted by the applicant was verified; a Statement of results following an inquiry into the applicant's prior activities, criminal record, if any, and reputation, habits and associations; a Statement showing the results of interviews of a sufficient number of knowledgeable people (such as former employers, personal references, and others referred to by the applicant) in order to provide a basis for the Community to make a finding concerning the eligibility for employment in a gaming operation; and a Statement documenting the disposition of all potential problem areas noted and disqualifying information obtained.

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

i. Shall notify the NIGC; and

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

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

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

G. Granting a Gaming License

a. If within a thirty (30) day period after the National Indian Gaming Commission receives a report, the National Indian Gaming Commission notifies the Community that it has no objection to the issuance of a license pursuant to a license application filed by a key employee or a primary management official for whom the Community has provided an application and investigative report to the National Indian Gaming Commission, the Tribal Gaming Commission, acting for the Community, may issue a license to such applicant.

b. The Tribal Gaming Commission shall respond to a request for additional information from the Chairman of the National Indian Gaming Commission concerning a key employee or a primary management official who is the subject to a report. Such a request shall suspend the thirty (30) day period under paragraph G(a) of this section until the Chairman of the National Indian Gaming Commission receives the additional information.

c. If, within the thirty (30) day period described above, the National Indian Gaming Commission provides the Community with a Statement itemizing objections to the issuance of a license to a key employee or a primary management official for whom the Tribal Gaming Commission has provided an application and investigative report to the National Indian Gaming Commission the Community shall reconsider the application taking into account the objections itemized by the National Indian Gaming Commission. The Community shall make the final decision whether to issue a license to such applicant.

H. License Suspension

a. If, after the issuance of a gaming license, the Tribal Gaming Commission receives from the National Indian Gaming Commission reliable information indicating that a key employee or a primary management official is not eligible for employment, the Tribal Gaming Commission shall suspend such license and shall notify in writing the licensee of the suspension and the proposed revocation.

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

c. After revocation hearing, the Tribal Gaming Commission shall decide to revoke or to reinstate a gaming license. The Commission shall notify the NIGC of its decision.

I. Board of Review for Disputes

a. The Community has determined that, in order to adhere to this Ordinance and all gaming regulations there shall be established a Tribal Gaming Board of Review (Board of Review). The Board of Review shall serve as the final review body for employee disputes. Employee disputes shall include disputes with management,

terminations, fines or other internal employee disputes, not to include actions taken by the Commission.

b. The Board of Review shall consist of five (5) members. The membership shall be comprised of one member of the Tribal Gaming Commission, one member from the Community Council, one primary management official or key employee, one enrolled Tribal member not employed by the gaming operation, and one employee of the gaming operation. The members shall be elected from their representative group and shall serve staggered terms. The two Tribal members shall serve three-year terms. The primary management official or key employee shall serve a two-year term. The members from the Tribal Gaming Commission and the Community Council shall serve one-year terms. Community Council shall determine the level of compensation. However, compensation shall never be tied to tribal gaming revenues.

c. The Board Review members shall elect a Chairperson from among them, whose duty it shall be to preside over all meetings and hearings. In addition, the members shall elect a Vice-Chair who shall be the custodian of any evidence submitted, and who shall preside in the Chairperson's absence. The Board of Review shall meet as needed and shall keep official records of the meetings. No later than three (3) working days following a hearing on employer disputes, the Board of Review shall issue its findings. Findings of the Board shall be final when issued.

d. No Board Review member shall be removed prior to the end of their term without cause. Removal shall be effectuated by a majority vote of the entire Board of Review, and shall be a final decision. Board of Review members shall not review any decisions affecting himself/herself or any person directly related to him or her.

## XIV. Licenses for Vendors

A. Vendors of services or supplies with a value of $25,000 or more annually must have a vendor license from the Tribal Gaming Commission in order to transact business with the Tribal gaming operation. Contracts for professional legal and accounting services are excluded from this section.

B. In order to obtain a vendor license, the business must complete a vendor application and submit to background checks of itself and its principals. Principals of a business include its officers, directors, management, owners, partners, non-institutional stockholders that either own 10% or more of the stock or are the ten (10) largest stockholders, and the on-site supervisor or manager under the agreement with the Community, if applicable.

C. Applications for vendor licenses must include the following:

a. Name of business, business address, business phone, federal tax ID Number (or SSN if a sole proprietorship), main office address if different from business address, any other names the applicant has done business under, type of service applicant will provide;

b. Whether the applicant is a partnership, corporation, limited liability company, sole proprietorship, or other entity;

c. If the applicant is a corporation, the state of incorporation, and the qualification to do business in the State of State of Minnesota if the gaming operation is in a different State than the State of incorporation;

d. Trade name, other names ever used, names of any wholly owned subsidiaries or other businesses owned by the vendor or its principals;

e. General description of the business and its activities;

f. Whether the applicant will be investing in or loaning money to the gaming operation and, if so, how much;

g. A description of any existing and previous business relationships with the gaming industry generally, including ownership interests in those businesses;

h. A description of any existing and previous business relationships with Indian tribes, including ownership, financial, management interests in non-gaming activities;

i. Names, addresses, and phone numbers of three business references with whom the company had regularly done business for the last five years;

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

k. If the business has ever had a license revoked for any reason, the circumstances involved;

l. A list of lawsuits to which the business has been a defendant, including the name and address of the court involved, and the date and disposition if any;

m. List the business funding sources and any liabilities of $50,000 or more;

n. A list of the principals of the business, their social security numbers, addresses and telephone numbers, title, and percentage of ownership in the company; and

o. Any further information the Community deems relevant.

B. The following notice shall be placed on the application form for a vendor and its principals:

a. Inclusion of false or misleading information on the vendor application may be grounds for denial or revocation of the Community's vendor license.

C. The Community may charge a license fee, to be set by the Tribal Gaming Commission, to cover its expenses in investigating and licensing vendors of the gaming operation.

XV. Minimal Internal Control Standards

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

XVI. License Locations

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

XVII. Agent for Service of Process

The Community hereby designates the Community's President as agent for service of process, who may be contacted at:

President
Lower Sioux Indian Community
R.R. 1, Box 1
Morton MN 56270

XVIII. Compliance with Federal Law

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

XIX. Repeal

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