

**LOWER SIOUX INDIAN COMMUNITY IN MINNESOTA  
MEMBERSHIP PRIVILEGE AND  
GAMING REVENUE ALLOCATION ORDINANCE**  
(As Amended Through September 30, 2003)

**Section 100 Repeal of Inconsistent Legislation**

Notwithstanding any previously applicable or inconsistent provisions of the law of the Lower Sioux Community in Minnesota ("the Community") which are hereby repealed and rescinded, this Ordinance shall govern the acquisition, loss, and reacquisition of membership privileges with regard to the Community, and the allocation of available net profits from Community owned gaming establishments including per capita distribution to qualified members of the Community.

**Section 101 Findings**

The Lower Sioux Community Council ("Community Council") finds

1. That the Constitution of the Lower Sioux Indian Community ("Community Constitution") states at Article III, section 3 that "Any person who is a member of the Community, but has removed therefrom a period of two (2) years, shall automatically forfeit all rights and privileges to the benefits of said community such as land assignments and sharing in community profits."
2. That the Community Constitution further states at Article III, section 4 that "The Community Council may make ordinances governing the acquisition and loss of membership, subject to review by the Secretary of the Interior."
3. That the Federal Indian Gaming Regulatory Act of 1988 ("IGRA") provides for the per capita distribution of profits from Indian gaming enterprises pursuant to a revenue allocation plan subject to the approval of the Secretary of the Interior.
4. That it is in the best long-term interest of the Community to formalize the process by which membership privileges are acquired, lost, and reacquired.
5. That it is in the best long-term interest of the Community to provide for certain per capita distribution of Community gaming revenues to qualified members of the Community.

## **Section 200 Definition of Qualified Members**

Enrolled members of the Lower Sioux Indian Community in Minnesota who are deemed to have current membership privileges shall be known as Qualified Members of the Community. Qualified Members of the Community, as of the original effective date of this ordinance [July 29, 1993], shall be deemed to be those enrolled members over eighteen (18) years of age whose names appear on the list of "Chartered Resident Members" attached to Enrollment Ordinance No. 1A-90 as Appendix 3, and also attached hereto. After the original effective date of this ordinance, other enrolled members may be deemed to be Qualified Members by reacquiring membership privileges pursuant to this ordinance or any other lawful enactments.

Qualified Members shall have all the privileges of Community membership, including voting privileges (subject to such other voting regulations as the Community from time to time may enact), the privileges of participating in Community programs, and the privilege of receiving per capita distributions from Community gaming enterprises conducted pursuant to the federal Indian Gaming Regulatory Act in the manner provided in section 302 of this ordinance.

The Community Council shall cause a list to be kept of all Qualified Members, and shall cause the list to be updated as necessary when persons gain or lose membership privileges pursuant to the terms of this ordinance.

## **Section 201 Loss of Membership Privileges**

A Qualified Member shall lose membership privileges in the Community, including the privileges of voting, participating in Community programs, and receiving per capita distributions from Community gaming enterprises if the member ceases to maintain residency within the Lower Sioux Reservation or its ten mile radius service area identified in Resolution No. 72-27 (hereinafter, "Community Area") for a period of two consecutive years, and the Community Council makes a formal finding to that effect.

If a Qualified Member leaves the Community Area in order to attend, and actually does attend, an accredited post-high school educational institution as a full-time student, then such member shall be deemed not have removed his/her residency from the Community Area during the time such member was gone due to such attendance. However, if such member graduates from the educational institution, or otherwise ceases to attend such institution as a full-time student, and does not return to the Community Area and re-establish residency within sixty days thereafter, then such member shall be deemed to have removed his/her residency from the Community Area during the time such member was gone, and he/she shall be subject to loss of membership privileges under the terms of this ordinance.

If a Qualified Member who is a member of the United States military (excluding the National Guard) leaves the Community Area because he/she is required to do so



because of military orders, then such member shall be deemed not have removed his/her residency from the Community Area during the time such member was gone due to such orders. However, if such member is discharged, or otherwise ceases to be a member of the United States military, and does not return to the Community Area and re-establish residency within sixty days thereafter, then such member shall be deemed to have removed his/her residency from the Community Area during the time such member was gone, and he/she shall be subject to loss of membership privileges under the terms of this ordinance.

If a Qualified Member is absent from the Community Area in order to be treated primarily for a mental illness or mental disability (other than being committed involuntarily to an institution pursuant to a criminal or civil court order), and if appropriate treatment is not available within the Community Area, and if such absence for treatment does not last longer than four years, then such member shall be deemed not to have removed his/her residency from the Community Area during the time such member was gone due to such treatment. However, if such member discharged from the place where he/she is receiving treatment, or if absence from the Community Area ceases to be necessary for continuation of treatment, and such member does not return to the Community Area and re-establish residency within sixty days thereafter, then such member shall be deemed to have removed his/her residency from the Community Area during the time such member was gone, and he/she shall be subject to loss of membership privileges under the terms of this ordinance.

If a Qualified Member is incarcerated in an institution pursuant to a conviction under any criminal law, or is committed involuntarily to an institution pursuant to a criminal or civil court order, such member shall be deemed to have removed his/her residency from the Community Area during the time of the incarceration or commitment.

A Qualified Member shall also lose membership privileges in the Community, including the privileges of voting, participating in Community programs, and receiving per capita distributions from Community gaming enterprises, if the Community Council finds after written notice to the affected member specifying the conduct which will be at issue, and after a formal hearing, that the member poses a serious threat to the Community health, safety, or welfare, or that the member has make material misrepresentations concerning his/her residency.

For the purposes of this Ordinance, "residency" shall mean the place where a person physically dwells or abides with the intent of dwelling or abiding there permanently, in such a manner that Community members would reasonably conclude based on day-to-day observations that the person has made the place his/her permanent home. A person who merely visits a place, or stays there without intending to make the place a permanent home, shall not be construed as establishing residency there.

## **Section 202 Acquisition of Membership Privileges**

An adult who becomes newly enrolled as a member of the Community under the provisions of the Community Constitution shall become a Qualified Member if he/she follows the requirements of Section 203 ("Reacquisition of Membership Privileges"). The residency period required in Section 203 may begin any time after the newly enrolled member has received an enrollment number; residency prior to the receipt of an enrollment number shall not be counted as part of the required period.

A minor child who becomes newly enrolled as a member of the Community under the provisions of the Community Constitution shall be entitled to receive an allocation to a trust for minors pursuant to Section 302 if such minor is a child of a Qualified Member. The first payment to such minor child's trust shall be the first regularly scheduled payment occurring after the passage of 30 days from the date of final action approving the minor's enrollment.

## **Section 203 Reacquisition of Membership Privileges**

A. Persons who have lost membership privileges under the provisions of the Community Constitution and this ordinance may reacquire membership privileges pursuant to this section. Persons who have lost membership privileges because they have ceased to maintain residency within the Community Area for a period of two consecutive years shall reacquire membership privileges under this ordinance if they return and establish residency in the Community Area for a period of five consecutive years. The date of commencement of such five year period may predate the effective date of this ordinance. Any person seeking to reacquire membership privileges under this section must establish by clear and convincing evidence in a proceeding brought before the Court of the Lower Sioux Community, that he or she has in fact followed all the requirements of proof mandated by this section and has been a bona fide resident of the Community Area for the entire five year period in question. Any significant absence from the Community during this period of time, or any absence at all occurring because of an intent to change residency, shall break the continuity of residency required by this ordinance.

B. In order for a person to be eligible to reacquire membership privileges under this section, he/she shall verify residency by submitting a monthly Community Residency Form to the Community Membership Committee for each month during the required five year period. The Community Membership Committee shall make available such Residency Forms to interested persons. A Community Residency Form shall be signed and submitted during the month to which it applies. The signature of the person signing the Community Residency Form, and the date of signing, shall be notarized by a Minnesota Notary Public. If one Community Residency Form is submitted to the Community Membership Committee later than the end of the month to which it applies, the person shall be required to provide proof of residency under this section for a period of five years and one month. If a second Community Residency Form is submitted to the



Community Council later than the end of the month to which it applies, the person shall be required to provide proof of residency under this section for a period of five years and two months. If a third Community Residency Form is submitted to the Community Council later than the end of the month to which it applies, the person shall be required to begin a new five year period for proof of residency. In order to be valid, each Community Residency Form, when submitted, shall be accompanied by a copy of at least one of the following documents, in the name and address of the person and dated the month for which the Community Residency Form is submitted, as verification of residency for that month: 1) a signed or validated rent receipt; 2) a payroll check or stub, or similar employment record from a current employer; 3) a utility bill; 4) a social security check or stub; 5) a disability check or stub; 6) an unemployment compensation check or stub. No other documents may be used to verify residency. Failure to include one of the required documents with the Community Residency Form or failure to have the Form notarized shall render the Form invalid.

C. A rent receipt from a father, mother, son, daughter, brother, or sister of the person seeking to reacquire membership privileges shall not be valid unless it is accompanied by additional evidence of the actual transfer of rent money, such as a copy of a check or money order made out to the name of the landlord; provided that such a rent receipt accompanied by such additional evidence may be used to validate no more than six monthly Community Residency Forms, and that any such rent receipt and additional evidence beyond that number shall be considered invalid.

D. A person seeking to reacquire membership privileges under this section may initiate a proceeding in the Community Court by filing a Petition with the Court. In any such proceeding, the Court shall require the Community Membership Committee or Community Council to provide all Community Membership Forms that have been submitted by the Petitioner. The Community Court shall consider no evidence from the Petitioner other than the Community Residency Forms and the documentary proofs that are required to be attached. The documentary proofs shall be clear and unambiguous or else they shall not be valid. The Community Court shall not consider any documentary proofs from the Petitioner other than the kinds required by this section to be attached to Community Residency Forms. Among the kinds of proof that the Community Court shall not accept from a Petitioner are affidavits from interested or disinterested persons. If the Petitioner requests a hearing before the Community Court, the Court shall hold a hearing prior to making a determination on the Petition. The Court shall provide advance notice of the hearing to the Community Council.

E. In accordance with an amendment to the Community Constitution, approved by the United States Secretary of the Interior November 23, 1998, a member who was bona fide resident of the Community on November 17, 1998, may reacquire membership privileges pursuant to this section by establishing residency in the Community Area for a period of two consecutive years instead of five consecutive years, provided that the other requirements of this section are followed. For purposes of the constitutional amendment and this section, a person shall be considered to have been a bona fide resident of the Community on November 17, 1998, only in the following two circumstances:



1. If a person had timely signed and submitted a valid Community Residency Form for October, 1998, such person must have signed and submitted a valid Community Residency Form for November, 1998, prior to 5:00 p.m. November 30, 1998, or

2. If a person had not timely signed and submitted a valid Community Residency Form for October, 1998, such person must have signed and submitted a valid Community Residency Form for November, 1998, prior to 5:00 p.m. November 17, 1998.

F. If the Community Court determines that correct and valid Community Residency Forms were submitted to the Community Membership Committee at the correct times for the correct period with the correct and valid verifications required by this section, the Court shall make a finding that the person has re-established residency in the Community. In all other cases, the Court shall make a finding that the person has not re-established residency, and shall dismiss the proceeding. The Community Court may consider issues related to the truth of the Community Residency Forms and accompanying documentary proofs, and shall give the Community Council an opportunity to object to a Petition filed under this section. The effect of any finding of the Court that a person has in fact re-established residency for five continuous years shall be prospective only.

G. For persons who have lost membership privileges for reasons other than having ceased maintaining residency within the Community Area for a period of two consecutive years, membership privileges may be reacquired upon a finding by the Community Council that the reasons for the loss of membership privileges no longer exist and that it would be in the best interests of the Community for membership privileges to be reacquired. Upon the appropriate finding of the Community Council, the Community Council shall cause the persons to be added to the list of Qualified Members kept in accordance with section 200 of the ordinance.

H. Proving Residency for Months Prior to November 1997. The provisions of paragraphs A., B., C., D., and the first three sentences of paragraph F. of this section apply to all months from November of 1997 and forward. In order to prove residency for months prior to November of 1997, the following requirements apply in lieu of paragraphs A., B., C., D., and the first three sentences of paragraph F:

Persons who have lost membership privileges under the provisions of the Community Constitution and this ordinance may reacquire membership privileges pursuant to this section. Persons who have lost membership privileges because they have ceased to maintain residency within the Community Area for a period of two consecutive years shall reacquire membership privileges under this ordinance if they return and establish residency in the Community Area for a period of five consecutive years. The date of commencement of such five year period may predate the effective date of this ordinance. Any person seeking to reacquire membership privileges under this section must establish by clear and convincing evidence in a proceeding brought before the Court of the Lower Sioux

Community, that he or she has in fact been a bona fide resident of the Community Area for the entire five year period in question. Any significant absence from the Community during this period of time, or any absence at all occurring because of an intent to change residency, shall break the continuity of residency required by this ordinance. In making any determination with respect to such residency, the Court shall consider only unambiguous documentary proof of such residency, such as utility and telephone records in the name of the person, and employment records. The Court shall not consider affidavits of interested or disinterested persons, and shall not consider records which do not clearly establish residency, such as post office box applications, welfare applications, or other types of applications, or documents or receipts, sworn or unsworn, from persons who may be interested in the outcome of the person's application.

#### **Section 204 Newly Adopted Adult Members**

An adult who becomes a newly enrolled member of the Community by being adopted pursuant to the Community Adoption Ordinance shall become a Qualified Member if he/she follows the requirements of Section 203 ("Reacquisition of Membership Privileges"). The residency period required in Section 203 may begin any time after the adopted member has received an enrollment number; residency prior to the receipt of an enrollment number shall not be counted as part of the required period.

#### **Section 205 Membership Privileges for Members When They Reach Eighteen Years of Age**

An enrolled member of the Community who reaches the age of eighteen years shall become a Qualified Member under the following conditions:

A. A Member Who Has Been The Beneficiary Of A Minor's Trust Fund Under This Ordinance. Upon obtaining verified information that the member has turned eighteen years of age, the Community Council shall certify by resolution the date the member turned eighteen, and shall make a finding as to whether the member was a resident of the Community Area on his/her eighteenth birthday.

1. If the Council finds that the member was a resident of the Community Area on his/her eighteenth birthday, the member shall become a Qualified Member of the Community as of the date of the Council resolution. The first per capita payment to such new Qualified Member shall be the first regularly scheduled payment occurring after the passage of thirty days from the date of the Council resolution.

2. If the Council finds that the member was not a resident of the Community Area on his/her eighteenth birthday, the member shall become a Qualified Member of the Community only if the Council makes a further finding by resolution that the member either a) established residency in the Community Area within sixty days after



his/her eighteenth birthday, or b) established residency within sixty days after graduating from high school, if the member is attending high school as a full-time student on his/her eighteenth birthday.

If the Council by resolution finds that the conditions of "a" or "b" are met, the member shall become a Qualified Member as of the date of the resolution making such finding, subject to the conditions of this paragraph. The first per capita payment to such new Qualified Member shall be the first regularly scheduled payment occurring after the passage of thirty days from the date of the resolution making such finding. However, to maintain his/her status as Qualified Member, such a member must submit timely valid monthly Community Residency Forms to the Membership Committee for a twelve-month period, beginning the month following the Community's resolution under this section. If such member fails to timely submit a valid Community Residency Form for any month during the required period, the member shall immediately lose all membership privileges, and thereafter may reacquire membership privileges only by proving residency for five years pursuant to Section 203.

If the conditions of "a" or "b" above are not met, the member must acquire full membership privileges by proving residency for five years pursuant to Section 203.

B. A Member Who Has Not Been The Beneficiary Of A Minor's Trust Fund Under This Ordinance: Such member shall become a Qualified Member of the Community only if he/she proves residency for five years pursuant to Section 203. For such a member, the residency period required to become a Qualified Member may begin anytime within five years immediately prior to his/her eighteenth birthday or any time thereafter.

### **Section 300 Policy For Distribution of Per Capita Payments From Community Gaming Enterprises**

It is the intent of the Community that the provisions of this ordinance relating to the distribution of per capita payments from the Community gaming enterprises shall comply with the Indian Gaming Regulatory Act of 1988 (25 U.S.C. Sec. 2701-2721) and all other applicable federal law. The Community shall use revenues generated by Community gaming establishments primarily to strengthen the Community government, Community self-sufficiency, and to support Community economic development. The Community shall insure that its government and economic development shall receive the necessary financial support from net gaming revenues prior to distributing such revenues for other purposes. The Community is committed to strengthening its membership socially, economically, and culturally in its continuing efforts to realize its goal of self-determination.

The Constitution of the Community created the Community primarily for the benefit of the Mdewakanton Sioux who chose to reside within the Community Area. For more than twenty years it has been clear to the Community that enrolled members



residing with the Community Area have contributed daily to the advancement of the Community's social, economic, and cultural development.

The Community recognizes that increased personal daily contributions of Community enrolled members to the advancement of the Community's society, economy, and culture will have the long term effect of enhancing the Community's ability to survive as a viable and effective political community. Therefore, the Community encourages enrolled members who have lost membership privileges through their absence from the Community Area and who truly are committed to contributing to the Community, to return to live and to participate socially, economically, and culturally. However, the Community also recognizes that its resources are limited, and that a fragile balance would be upset if persons were permitted to assume or reassume the privileges of membership without having first demonstrated a commitment of the Community by a sustained period of satisfactory residency within the Community Area.

### **Section 301 Use of Community Gaming Net Revenues**

A. Minimum Allocation. In order to provide supplemental funding for Community operations, general welfare programs, economic development programs, and programs involving relations with surrounding governments, the Lower Sioux Community Council ("the Community Council") has allocated and will continue to allocate not less than twenty-five percent (25%) of net gaming business revenues to a Community account called the "Community Welfare and Economic Development Fund."

1. Increases to Fund. If it deems necessary, the Community Council shall have the authority to revise and increase the allocated percentage of net gaming business revenues paid into the Community Welfare and Economic Development Fund by allocating a larger percentage to the fund. Such increases shall be drawn from the percentage set by Section 302. The Community Council shall not decrease the allocated percentage set by this section to increase the percentage set by Section 302. Any revision of the allocated percentage herein shall be documented by a Community Council resolution, a copy of which shall be provided to the Secretary of the Interior, in accordance with section 11 of the Indian Gaming Regulatory Act of 1988, 25 U.S.C. 2710 (1988).

2. Accounts Within the Community Welfare and Economic Development Fund. The Community Welfare and Economic Development Fund shall have three separate accounts within it. These accounts shall be the Community Government Operation and Program Account, the Community Economic Development Account, and the Community Charities and Governmental Relations Account. The Community Council shall allocate the monies described in Section 301 herein to each of these accounts in the following proportions: twenty-nine percent (29%) of the Community Welfare and Economic Development Fund shall be placed in the Community Government Operation and Program Account; sixty-nine percent (69%) of the Community Welfare and Economic Development Fund shall be placed in the Community

Economic Development Account; and two percent (2%) of the Community Welfare and Economic Development Fund shall be placed in the Charities and Governmental Relations Account.

B. Budgets. The Community Council or its appointed agent shall receive budget reports from each Community program thirty days prior to the commencement of each fiscal year. The budget reports shall detail at a minimum the past year revenues and expected revenues and revenue sources for the upcoming year, and a detailed accounting of past year expenditures. The budget reports shall also include budget supplement requests to be funded by the Community Welfare and Economic Development Fund. End of year reports, summarizing revenues and expenditures for the preceding year, shall be made available to the Community Council or its appointed agent for each program not later than sixty days after the end of each fiscal year.

C. Programs. Community programs which shall submit budget reports under this section shall include, but not limited to:

1. For the Community Government Operation and Program Account: Community administration, Community court, Community housing programs, Community physical maintenance programs, Community education programs, Community elderly programs, and other programs as may be from time to time required by the Community Council.

2. For the Community Economic Development Account: Community economic development and maintenance programs, and other programs as may be from time to time required by the Community Council.

3. For the Community Charities and Governmental Relations Account: Community charitable giving programs, Community relations programs, and other programs as may be from time to time required by the Community Council.

D. Allocation. The Community Council shall within thirty (30) days from receiving all budget reports allocate those funds in the accounts of the Community Welfare and Economic Development Fund by dividing the accounts in portions that shall be fair and best meet the budget supplement request submitted by each Community program in light of projected gaming business revenues.

E. Reports. The Community Council shall devise and disseminate budget report requirements that detail what projected expenditures may be included in the budget supplement requests of each Community program. The budget report requirement shall require Community programs to consider those essential duties, services, and responsibilities of Community programs which cannot be dependent on projected, yet uncertain, gaming revenues; and the budget report requirements shall require Community programs to establish priorities for items included in the budget supplement requests in insure that essential duties, services, and responsibilities will be met by all projected revenues derived from whatever source.



F. Disbursements. The Community Council or its appointed agent shall disburse those monies available out of the accounts of the Community Welfare and Economic Development Fund pursuant to the division made pursuant to paragraph D herein. Any disbursements made hereunder shall be received by the receiving program and handled in a manner consistent with the program's generally accepted accounting principles.

## **Section 302**

### **Use of Community Gaming Net Revenue: Individual Per Capita Payments**

A. Maximum Allocation. The Community Council hereby allocates henceforth, in order to advance the personal health, safety, and welfare of Qualified members, up to seventy-five percent (75%) of net gaming business revenues to be divided into equal shares and paid to all Qualified Members of the Lower Sioux Community. For purposes of this Ordinance, "per capita payment" shall mean those payments made pursuant to the terms of this Ordinance to Qualified Members out of revenues generated from Community gaming businesses.

1. Option for Uniform Monthly Per Capita Payments. Upon the majority vote of the Community Council, and subject to the limitation that not more than seventy-five percent (75%) of the Community's net gaming business revenues may be paid to Qualified Members as per capita payments, the per capita payment schedule for all persons entitled to receive such payments may be adjusted to provide for uniform monthly per capita payments. If the Community Council elects to make such an adjustment, all monies of the stipulated monthly net revenues of Community gaming businesses that are set aside for per capita payments in excess of the uniform monthly amount shall be deposited into a low-risk interest bearing reserve bank account, the principal and interest of which shall be available and shall be drawn upon to supplement individual per capita payments in any month or months during which the available proceeds do not permit distribution at the previously budgeted uniform amount. All monies, if any, remaining in such reserve account shall be distributed to all adult Qualified Members in equal payments during the first quarter of each calendar year.

2. Compulsory Payment of Per Capita Reserve. In no event shall the principal placed in uniform payments per capita reserve account be held for more than twelve (12) calendar months from the date of deposit into the reserve. Interest on the per capita reserve may be retained or uniformly distributed to Qualified Members.

B. Qualification for Per Capita Payments. In order to fairly satisfy the needs of members who have demonstrated a commitment to the advancement of self-determination of the Community by residing within the Community Area and to enhance the Community socially, economically, and culturally, the Community shall provide per capita payments only to those who are deemed to be Qualified Members pursuant to this ordinance. Minor children of Qualified Members, if such children are eligible to be enrolled in the Community, shall receive per capita payments to the trusts provided for in section 302 D.

C. Trust for Incompetents. The Lower Sioux Community Council shall have the authority to place into trust in a low-risk interest or dividend bearing account in a federally insured financial institution it finds satisfactory the per capita payments, or any portion or percentage thereof, of any individual who is declared incompetent by a court of competent jurisdiction.

1. Procedure for Placing Payments into Trust. The Community Council in its discretion may place into trust the per capita payment of any individual declared legally incompetent upon a Lower Sioux Community Court Order or the order of another court of competent jurisdiction. The Community may so act on its own initiative or upon the petition of at least two enrolled qualified members, one of which must be a family member of the affected individual. If the Community Council is acting upon a petition, the Community Council or its appointed agent shall conduct hearings as it sees fit to gather testimony and evidence as to the reasons Petitioners feel it should place into trust the per capita payments of the individual declared incompetent. The Community Council or its appointed agent retains the authority to place into trust any per capita payment of an individual declared incompetent before holding a hearing; however, the Community Council or its appointed agent must conduct a hearing and make a decision thereafter within thirty (30) days from the date it has placed into trust the per capita payment.

2. Authority to Pay Living Allowance. The Community Council or its appointed agent shall have the discretion to pay a monthly living allowance up to the entire per capita payment amount from the per capita payment or payments and interest thereon which have been placed into trust pursuant to section 302 C.1. above upon the petition of the legal guardian of any individual declared legally incompetent. Such petition shall include a detailed budget of monies necessary for the health, education, and welfare of the individual declared incompetent.

3. Account Statements of Trust Account. The Community council or its appointed agent shall make available a monthly bank statement of any monies placed into trust for an individual declared legally incompetent to the legal guardian of such person.

4. Power of Community Council to Delegate Authority. The Lower Sioux Community Council has the inherent power to delegate authority to make determinations regarding the per capita payments to persons declared incompetent. It shall be up to the Community Council to determine to whom it will delegate this authority, if to anyone. Any such appointment of an agent with delegated authority shall be documented by Community Council resolution.

5. Right of Judicial Review. Any qualified member adversely affected by this paragraph shall have the right of judicial review as outlined in section 500 of this Ordinance.

D. Trusts for Minors. The Lower Sioux Community Council finds that the immediate needs and living expenses of minors who are the children of qualified



members are primarily the responsibility of the parent, parents or legal guardian of the minors and that such minors are not faced with the same financial obligations as are adults. The Community Council further finds that the well-being of the Community will be most effectively furthered if per capita payments are used primarily by adult members of the Community to improve conditions for themselves and their families. The Community further finds that the future needs of minor children of qualified members will be appropriately met by the accumulation of smaller per capita payments over a period of time. Therefore, the Community Council hereby allocates an amount equal to ten percent (10%) of each full per capita share to a "Minor's Trust Fund" to be established in a low-risk interest or dividend bearing trust account for each minor child of qualified members, if such child is enrolled in the Community. Trust funds shall be administered under a trust document to be approved by the Community Council, which shall provide that account balance statements shall be available to the Community Council, and to participants or the parent, parents, or legal guardian of the participants and that all applicable taxes shall be paid by the trustee from the trust accounts. All monies accumulated in their minor trust account on behalf of the individual shall be held like all other funds in the minor trust account and shall be disbursed pursuant to the terms of the trust documents.

Once a minor qualifies for a minor's trust account under this section, the minor shall not lose the privilege of receiving per capita payments into the account, regardless of the minor's residence or any change in the status of the membership privileges of the minor's parent.

1. Order For Payment of a Living Allowance. The Lower Sioux Community Tribal Court (hereafter, "Community Court") shall have the jurisdiction to issue an Order directing the Community Council or its appointed agent to pay a monthly living allowance to the legal guardian of a minor up to one third of the per capita payment amount due to be placed into trust for the minor. Upon receipt of such an Order, the Community Council or its appointed agent shall make payments in accordance with the Order; the Community Council or its appointed agent shall not have any discretion to make such payments in the absence of an Order from the Community Court.

2. Findings by the Community Court. The Community Court shall issue an Order directing the payment of a monthly living allowance only upon a finding by the Court that such payment is necessary for the health, education, or welfare of the minor; that extraordinary circumstances exist which justify the use of funds which should be placed in trust for the minor; that the minor either currently is covered by fundamentally adequate health insurance, or that the living allowance will be used to provide such insurance coverage; that the applicant is not receiving any legally-required child support payments; and that the payment will be used for the stated purposes. Any order issued by the Community Court under this section shall not extend for more than one year. If the Court finds that circumstances have materially changed during the term of the Order; or that the payment is not being used for the health, education, or welfare of the minor; or that the minor has ceased to be covered by fundamentally adequate health insurance; or that the applicant is receiving legally-required child support payments; or that the



payment is not being used for its stated purposes, the Court may amend or terminate its Order. "Fundamentally adequate health insurance," for the purpose of this section, means a governmental, group, or individual health insurance program that, at a minimum, provides for significant contribution to the care of the minor in case of catastrophic or long-term health problems.

3. Proceedings in the Community Court. A proceeding for a Court Order directing payment pursuant to this section shall be initiated by the filing of a written petition by the legal guardian of such minor with the Clerk of the Lower Sioux Community Court. The petition shall include proof of service of the petition on the Community Council; however, the Community Council shall not be considered to be a party to the action. The petition shall contain a written justification as to why the payment is necessary for the health, education, or welfare of the minor; a description of the extraordinary circumstances which make such payment appropriate; a certification that the minor either currently is covered by fundamentally adequate health insurance or that the living allowance will be used to provide such coverage; a detailed budget for use of the payment; and the length of time up to one year that the payment is requested. Within fifteen (15) days following receipt of the petition by the Community Council, the Council shall submit to the Clerk of the Community Court the following information:

- a. Whether the petitioner is an enrolled member of the Lower Sioux Community.
- b. Whether the petitioner currently is receiving per capita distributions from the Lower Sioux Community.
- c. Whether the petitioner is employed.
- d. Whether the petitioner is receiving child support.
- e. The current balance of the minor's trust account.
- f. A summary of the past two (2) year's deposits or withdrawals from the minor's trust account.
- g. The date of the next regularly scheduled deposit to the minor's trust account, and an estimate of the likely amount of such deposit.

The Community Court may order such further hearings, proceedings, or submissions as the Court deems desirable. If the Community Court orders the Community Council to pay a living allowance, the Community Council shall make such payment in accordance with the Court Order beginning with the next per capita payment occurring after the passage of fourteen (14) days from the date the Court Order is received by the Community.

E. No Retroactive payments. Any person becoming eligible after the date of this Ordinance to receive per capita payments shall not be entitled to any retroactive payments of per capita distributions. The first per capita payment to a new Qualified Member under this Ordinance shall be the first regularly scheduled payment occurring after the passage of 30 days from the date the Community Council issues a confirmation of qualified status under this Ordinance.



F. Federal Taxes. The Treasurer shall insure that notification of the application of federal tax laws to Community per capita payments be made when such payments are made. The Treasurer shall insure that federal income taxes are withheld from per capita payments as required by applicable federal law and regulation.

#### **Section 400 Approval by Secretary of Interior; Severability**

Any amendment of this Ordinance must be approved by the Secretary of the Interior as provided by law.

If any section of any part of this Ordinance or the application thereof to any party, person, or entity or, in any circumstances, shall be held invalid for any reason whatsoever by a court of competent jurisdiction, or by the Department of the Interior, the remainder of the part or Ordinance shall not be affected thereby and shall remain in full force and effect as though no part thereof has been declared to be invalid.

#### **Section 500 Sovereign Immunity**

Nothing in this Ordinance shall mean or be interpreted to provide a waiver of the Community's or any of its governmental officers' and/or agents' sovereign immunity from suit except to the limited extent such waiver is explicitly expressed herein. The Community and its officers in their official capacity do herewith consent to suit in the Court of the Lower Sioux Community for the purposes of allowing judicial review of their determination made under this Ordinance.

THIS CODIFICATION WAS PREPARED UNDER THE DIRECTION OF THE LOWER SIOUX COMMUNITY COUNCIL.

#### *History of Ordinance*

*[Originally adopted July 29, 1993 (Resolution No. 41-93); approved by Secretary of the Interior July 29, 1993.]*

*[Section 302 amended December, 1993 (Resolution No. 41-93 [sic]); approved by Secretary of the Interior January 13, 1994.]*

*[Section 203 amended January 26, 1994 (Resolution 25-93-94); approved by Secretary of the Interior February 18, 1994.]*

*[Section 302 amended April 25, 1995 (Resolution No. 40-95); approved by Secretary of the Interior June 7, 1995.]*

*[Section 302 amended July 21, 1995 (Resolution No. 62-95); approved by Secretary of the Interior October 13, 1995.]*

*[Section 302 amended September 19, 1995 (Resolution No. 78-95); approved by Secretary of the Interior September 22, 1995.]*

*[Section 202 amended January 5, 1996 (Resolution No. 2-1996); approved by Secretary of the Interior May 8, 1996.]*

*[Section 301 and 302 amended June 24, 1997 (Resolution No. 121-97); approved by Secretary of the Interior July 11, 1997.]*

*[Section 203 amended August 28, 1997 (Resolution No. 148-97); approved by Secretary of the Interior October 31, 1997.]*

*[Section 302 amended April 21, 1998 (Resolution No. 28-98); approved by Secretary of the Interior July 27, 1998.]*

*[Section 204 amended May 22, 1998 (Resolution No. 35-98); approved by Secretary of the Interior October 1, 1998.]*

*[Section 201 amended September 8, 1998 (Resolution No. 54-98); approved by Secretary of the Interior October 29, 1999.]*

*[Section 302 amended September 8, 1998 (Resolution No. 55-98); approved by Secretary of the Interior October 29, 1999.]*

*[Section 600 deleted November 16, 1998 (Resolution No. 72-98); approved by Secretary of the Interior October 29, 1999.]*

*[Sections 202, 203, and 204 amended February 23, 1999 (Resolution No. 09-99); approved by the Secretary of the Interior October 29, 1999.]*

*[Section 302 amended October 19, 1999 (Resolution No. 78-99); approved by Secretary of the Interior October 29, 1999.]*

*[Entire ordinance recodified August 17, 1999 (Resolution No. 59-99); recodification approved by Secretary of the Interior October 19, 1999.]*

*[Sections 301 and 302 amended October 16, 2000 (Resolution No. 76-00); approved by Secretary of the Interior June 11, 2002.]*

*[Section 302 amended February 20, 2001 (Resolution No. 14-01); approved by Secretary of the Interior January 18, 2002.]*

*[Section 201 amended August 1, 2001 (Resolution No. 80-01); approved by Secretary of the Interior January 18, 2002.]*

*[Section 205 added January 10, 2002 (Resolution No. 03-02); approved by Secretary of the Interior June 11, 2002.]*

*[Section 201 amended April 30, 2002 (Resolution No. 36-02); approved by Secretary of the Interior November 15, 2002.]*

*[Sections 202 and 204 amended April 30, 2002 (Resolution No. 37-02); approved by Secretary of the Interior November 15, 2002.]*

*[Section 203 amended September 9, 2002 (Resolution No. 57-02); approved by the Secretary of the Interior February 5, 2003.]*

*[Section 302 amended September 9, 2002 (Resolution No. 58-02); approved by the Secretary of the Interior February 5, 2003.]*



APPENDIX 3: LIST OF CHARTERED RESIDENT MEMBERS  
[As referenced in section 200 of Membership Privilege Ordinance]

1. Wendy S. Bawden
2. Bruce A. Berry
3. Candice L. Berry
4. Dennis L. Berry
5. Marie Berry
6. Richard Berry
7. Robert F. Berry, Jr.
8. Rodney M. Berry
9. Roger Berry
10. Dorothy I. Bidinger
11. Dennis M. Blue
12. Gerald M. Blue
13. Julie A. Blue
14. Violet P. Blue
15. Roy E. Blue
16. Sylvia M. Blue
17. Harry T. Bluestone
18. Linda M. Bressette
19. Christopher B. Columbus
20. Glenford T. Columbus
21. Iola J. Columbus
22. Kevin D. Columbus  
(incarcerated)
23. Leon A. Columbus
24. Thomas G. Columbus
25. Vincent L. Columbus
26. Steven E. Crooks
27. Richard S. Crooks
28. William D. Crooks
29. Rachelle S. Crow
30. Renee K. Crow
31. Rita A. Dallenbach
32. Tracy L. Dallenbach
33. Wanda S. Day
34. Kelly M. Desjarlais
35. Marilyn J. Eller
36. William M. Eller
37. Daneilla K. Farmer
38. Donna D. Flynn
39. Janice M. Gentry
40. Lisa K. Thul
41. Nora Gonzalez (deceased)
42. Arthur E. Goodthunder
43. Dawn M. Goodthunder
44. Glenn C. Goodthunder
45. Joseph J. Goodthunder
46. Joseph L. Goodthunder
47. Jamie K. Goodthunder
48. Jason T. Goodthunder
49. Lucille S. Goodthunder (deceased)

50. Richard C. Goodthunder
51. Richard G. Goodthunder
52. Troy A. Goodthunder
53. Wayne K. Goodthunder
54. Tracy A. Green
55. Elizabeth M. Gregg
56. Michelle E. Gregg
57. Dan K. GreyEagle
58. Audrey F. Haas
59. Lana L. Hempel
60. Kelly M. Hinrichs
61. Dana G. Hoff
62. Dagmar R. Hoff
63. Lorraine B. Johnson
64. Elroy A. Jones
65. Melissa G. Jones
66. Gwendolyn S. Koder
67. Jacalyn S. Kokesch
68. Adam C. Larsen
69. Ann M. Larsen
70. Becky M. Larsen
71. Curtis M. Larsen
72. David E. Larsen, Jr.
73. Darryl J. Larsen
74. Emmarica Larsen
75. Robert D. Larsen
76. Robert L. Larsen
77. Terri L. Larsen
78. Leona E. Larsen
79. Betty L. Lee
80. Clarence A. Leith, Jr.
81. James A. Leith
82. Roberta G. Leith
83. Albert S. Lucio
84. Clifford W. Lucio, Jr.
85. Diane L. Lucio
86. John S. Lucio
87. Corrine Lucio
88. Tammy J. Lund
89. Bradford C. Nies
90. Lori J. Nelson
91. Laura J. O'Brien
92. Travis L. O'Neil
93. Yvonne A. Ostermeier
94. Alan W. Pendleton, Sr.
95. Audrice L. Pendleton
96. Benjamin D. Pendleton
97. Brenda L. Larsen
98. Brian D. Pendleton
99. Cathy J. Pendleton



100. Carla R. Pendleton
101. Dennis L. Pendleton
102. Earl H. Pendleton
103. Fredrick J. Pendleton
104. Gladys I. Pendleton
105. Iola I. Pendleton
106. Joan J. Pendleton
107. Joyce R. Pendleton
108. Kimberly Pendleton
109. Marvin D. Pendleton
110. Morris J. Pendleton
111. Ronald W. Pendleton
112. Wallace Pendleton
113. LaVonne Peterson
114. Danny D. Prescott
115. Denny D. Prescott
116. Darin M. Prescott
117. Evelyn M. Prescott
118. Gregory G. Prescott
119. Larry H. Prescott
120. Leslie T. Prescott
121. Leslie W. Prescott
122. Michael W. Prescott
123. Beatrice E. Rainey
124. Deborah K. Robertson
125. Lori L. Schoen
126. Patti L. Schoen
127. Jason J. Sommers
128. Patricia A. Sommers
129. Kay L. Spinler
130. Susan K. Spinler
131. Sheryl L. Spinler
132. Alice A. Sweesy
133. Shelly I. Williams
134. Ernest R. Wabasha
135. Shawn M. Wabasha
136. Linda R. Whitaker
137. Steven M. Whitaker
138. Gloria White
139. Maude M. Williams
140. Lydia Zephier
141. Michele L. Pendleton
142. Marc W. Pendleton
143. Russell R. Pendleton
144. Robin T. Pendleton

