

## Lower Sioux Indian Community

P.O. Box 308 • RR#1 • Morton, MN 56270

### LOWER SIOUX COMMUNITY COUNCIL RESOLUTION NO. 29-02

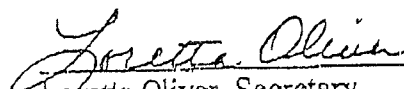
WHEREAS, The Lower Sioux Community Council has determined that there currently is no cause of action under Community law for the review of certain discretionary decisions of the Community Council; and

WHEREAS, The Community Council has concluded that it is fair and equitable to create a process for judicial review of certain of its discretionary decisions.

NOW THEREFORE BE IT RESOLVED that the following LOWER SIOUX INDIAN COMMUNITY ADMINISTRATIVE PROCEDURES ORDINANCE is hereby enacted by the Lower Sioux Community Council.

BE IT FURTHER RESOLVED that the following Ordinance shall take effect immediately, and that it shall be applied to any action currently pending in the Lower Sioux Community Court.

I certify that Resolution No. 29-02 was duly adopted by the Lower Sioux Community Council at a meeting held on the 5th day of APRIL, 2002, a quorum being present, by a vote of 4 in favor, 0 opposed, and 0 abstaining.

  
Loretta Oliver, Secretary

### LOWER SIOUX INDIAN COMMUNITY ADMINISTRATIVE PROCEDURES ORDINANCE

#### Section 1. Purpose.

The purpose of this Ordinance is to provide a cause of action for aggrieved parties and a judicial review procedure with regard to certain discretionary decisions made by the Lower Sioux Community Council pursuant to Community law.

## Section 2. Definitions.

"Community Council" shall mean the Lower Sioux Community Council, or any authorized delegate or subsidiary body or committee, acting in its official capacity.

## Section 3. Applicability.

This Ordinance shall apply only to final actions by the Community Council taken pursuant to the following provisions of Community law:

- a) Section 201 of the Lower Sioux Community Membership Privilege and Gaming Revenue Allocation Ordinance, relating to the loss of membership privileges.
- b) Section 205 of the Lower Sioux Community Membership Privilege and Gaming Revenue Allocation Ordinance, relating to membership privileges for members when they reach eighteen years of age.

## Section 4. Cause of Action.

Any person aggrieved by a final action of the Community Council to which this Ordinance applies shall have a cause of action in the Lower Sioux Community Court to obtain review of such Community Council action. Notwithstanding any other Community law, such review shall be exclusively pursuant to the provisions of this Ordinance.

## Section 5. The Record.

Subd. 1. Any final action of the Community Council to which this Ordinance applies shall be made in writing and shall be based on a record.

Subd. 2. Any review by the Community Court of a final action pursuant to this Ordinance shall be exclusively on the record that was before the Community Council.

Subd. 3. The record shall be comprised of any documentary or physical evidence, any written testimony, any written argument, and any other writing submitted to or considered by the Community Council in the course of its consideration of the action. If the Community Council takes oral testimony or argument, and bases its decision in whole or in part on such oral testimony or argument, the Council shall summarize in writing what parts of the testimony or argument were material to its decision and include such summary in the record.

Subd. 4. The record shall not include any minutes, notes, or written materials reflecting the internal deliberations within the Community Council, or any advice or written materials from any legal advisor to the Council. Such materials shall not be subject to discovery in any proceedings under this Ordinance.

**Section 6. Procedure for Judicial Review.**

Review of a final action pursuant to this Ordinance shall be initiated by filing with the Community Court a Petition for Review of Final Council Action. Upon service of the Petition and a Summons upon the Community Council, the Community Council shall have forty (40) days to file an Answer, and to certify and deliver the record to the Clerk of the Community Court. In all other respects, the review shall proceed in the manner provided by the Community Court's rules of procedure, including the rules relating to appeals of trial court decisions.

**Section 7. Scope of Judicial Review.**

Subd. 1. The Community Court may affirm or reverse the final action of the Community Council, or it may remand the matter for further consideration by the Council.

Subd. 2. The Community Court shall confine its review of the final action to the record that is certified to it by the Community Council. The Community Court shall not conduct a *de novo* review of the facts or material in the certified record.

Subd. 3. The Community Court shall affirm the final action if it was reasonable and supported by substantial evidence in the record, and if the final action was not arbitrary or capricious.

**Section 8. Statute of Limitations.**

Any Petition for Review of Final Council Action shall be filed with the Community Court within ninety days from the date upon which the Community Council mailed notice of its final action to the affected party. Any Petition not filed in accordance with this time period shall be barred.