



November 12, 2009

Mr. Jim Preston  
Rapid City Finance Officer  
300 Sixth Street  
Rapid City, SD 57701

HAND-DELIVERED

Re: Application for License to Conduct Raffle

Dear Mr. Preston:

Black Hills Symphony Orchestra Society, Inc., a South Dakota nonprofit corporation, applies for a license to conduct a raffle to sell chances to win a pendant and pin to be given away following the orchestra's December 5th concert. The entire net proceeds received from the raffle will be applied to support the Black Hills Symphony Orchestra.

The following information is provided in accordance with SDCL 22-25-25(6) and Rapid City Ordinance 5.20.020:

- A. The full legal name of the organization and place and date of incorporation or formation**  
Black Hills Symphony Orchestra Society, Inc.; incorporated in South Dakota on August 19, 1977.
- B. The authority and office held by the person applying on behalf of the organization**  
President, with authority granted under the corporate bylaws
- C. Mailing address of the organization and its principal place of business for the preceding 3 years**  
Mailing address: PO Box 2246, Rapid City, SD57709  
Principal place of business: 1202 E. St. Francis St., Rapid City, SD 57701
- D. The class of exemption describing the organization as follows:**  
Local civic; educational
- E. A statement of facts which establish that the applicant is an organization of the class indicated in subsection D. of this section, together with copies of applicable charters or other documents showing the bona fide nature of the organization and operation of the applicant**  
Black Hills Symphony Orchestra Society, Inc., is a South Dakota nonprofit corporation in good standing, as reflected in the enclosed page from the South Dakota Secretary of State's Web site and the enclosed copies of the corporation's bylaws.

**F. A description of the educational, charitable, patriotic, religious or other public spirited uses for which the entire net proceeds of any bingo game or lottery will be devoted**

The entire net proceeds will be used to advance the stated mission of the Black Hills Symphony Orchestra "to provide the finest in orchestral performance and symphonic music education for the people of the Black Hills region," including the payment of expenses associated with orchestra performances.

**G. The place(s) or location(s) the organization intends to conduct any bingo game or lottery**

- Rushmore Plaza Civic Center, Theatre Lobby, Rapid City, South Dakota
- Black Hills Piano Gallery, located at 333 Omaha Street, Rapid City, South Dakota

**H. A statement of the date(s) and time(s) the organization intends to conduct any bingo game or lottery at each of the location(s) stated in subsection G. of this section**

- At the next concert of the Black Hills Symphony Orchestra on December 5, 2009, between 6:00 p.m. - 10:00 p.m.
- At the orchestra rehearsal on December 3, 2009, between 7:00 p.m. - 10:00 p.m.
- At the Black Hills Piano Gallery from the date the license is issued until December 5, 2009, during normal business hours,

**I. A list of all persons who shall conduct any bingo game or lottery or assist therein on behalf of the organization**

Karen Black, Vice-President of Black Hills Symphony Orchestra Society, Inc.  
Anthony Thomas, Board Member of Black Hills Symphony Orchestra Society, Inc.  
Connie Thomas, spouse of Anthony Thomas

**J. A complete itemization of all intended compensation for any and all services rendered in connection with the conduct of any bingo game or in consideration of any lottery, except for bingo games and lotteries conducted in connection with county and state fairs or civic celebrations pursuant to SDCL § 22-25-25(4)**

Not applicable. No compensation or other consideration will be remitted for services rendered in connection with the conduct of the lottery.

**K. Certification, under oath by an authorized officer, director or agent of the organization, that the proceeds from any bingo game or lottery shall not inure to the benefit of any individual other than as provided by SDCL § 22-25-25(4) for compensation for services rendered**

See enclosed affidavit of Eric Gardner, President of Black Hills Symphony Orchestra Society, Inc.

**L. Certification under oath by an authorized officer, director or agent of the organization of any of the following conditions shall exempt the organization from compliance with the additional requirements contained in subsections M. through P. of this section:**

1. That the organization will not conduct more than 2 bingo sessions and/or lotteries within 1 year of authorization;
2. That the aggregate of the proceeds from more than 2 bingo sessions and/or lotteries conducted by the organization within 1 year of authorization will not exceed \$75,000; or
3. That conduct of any bingo game or lottery at location(s) off the premises of the principal place of business of the applicant organization, or at a separate eligible organization, will meet the conditions set forth in subsection L.1. or 2. of this section.

See enclosed affidavit of Eric Gardner President of Black Hills Symphony Orchestra Society, Inc.

**M. A complete itemization of intended prizes, the value thereof, and the manner and time of award**

- One pendant, valued at \$210.00
- One pin, valued at \$170.00

**N. Each person listed in subsection I. of this section shall submit additional information as the Rapid City Police Department may reasonably request with respect to their identity and personal history, together with fingerprints and a recent photograph meeting police specification**

Any additional information requested by the Rapid City Police Department will be promptly provided, in accordance with this section.

**O. The method of bookkeeping shall be described and the books shall be intended to accurately and fairly reflect each day's transactions including, but not limited to handling of lottery tickets or pull tabs at off-premises locations, expenses and all other transactions involving bingo or lottery funds necessary so as to permit preparation of daily financial statements in conformity with generally accepted accounting principles and to maintain daily accountability. In the event the common Council authorizes an organization to conduct any bingo game or lottery, the organization shall provide monthly written reports to the city's Finance Officer no later than the fifteenth day of each month for the preceding month's operation. The reports shall indicate monthly gross proceeds, prizes paid, expenses incurred and total net profit. An annual report shall also be provided no later than April 1 indicating specifically the amounts, place(s) and purpose(s) of each and every disbursement of every manner of the gross proceeds, net proceeds, expenses and profits for the preceding 12 months of operation;**

Net proceeds received from the raffle will be deposited by a single transaction into the corporation's checking account at Wells Fargo Bank and will be reflected in the corporation's financial statements prepared in conformity with generally accepted accounting principles.

The corporation is exempt under Section L above from providing a monthly written report to the city Finance Officer.

**P. 1. A copy of any off-premises lease, rental or other contract between any other organization or establishment and the applicant organization shall be submitted for off-premises pull tab sales which lease, rental or other compensation shall not exceed \$150 per month per location.**

Not applicable.

**2. The place(s) or location(s) identified in subsection G. of this section for any off-premises pull tab sales not exempt pursuant to subsection L. of this section, shall be limited to establishments having an on-sale liquor license, not to exceed 2 such locations at the same time within the city. The conduct of any pull tab sales at such an on-sale liquor establishment shall be clearly designated to customers by signage as to the identification of the organization conducting the lottery.**

Not applicable.

**3. With respect to such locations, any pull tab sales conducted thereon shall be at times to coincide with the hours that alcoholic beverages may be dispensed in accordance with applicable law.**

Not applicable.

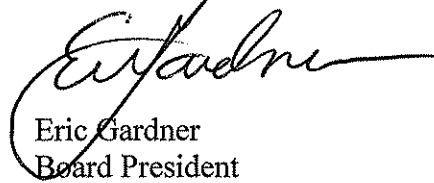
**4. Any person engaged in conducting such an off-premises pull tab sale shall be 21 years of age or older and shall be required to wear a photo-identification badge or card conspicuously displayed on his or her person at all times while conducting the off-premises pull tab sale or assisting therein on behalf of the organization. The badge or card shall meet police specifications and shall be obtained at the organization's expense. No person conducting such an off-premises pull tab sale shall consume alcoholic beverages while so engaged, nor shall the person allow any other person under 21 years of age to purchase pull tabs.**

Not applicable.

5. The organization conducting the off-premises application for authority as of June 1, 1989.  
Not applicable.

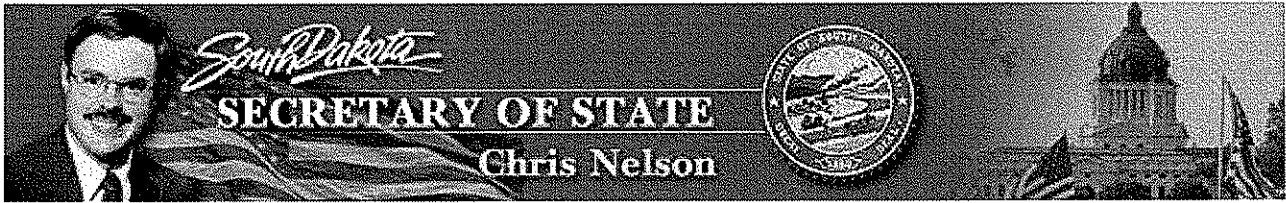
Please call Karen Black at 430-9189, if you have any questions, or require additional information. Thank you for your consideration in this matter.

BLACK HILLS SYMPHONY  
ORCHESTRA SOCIETY, INC.



Eric Gardner  
Board President

Enclosures

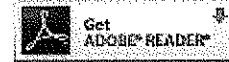


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Enter corporate ID or search word(s)

Black Hills Symphony Or

This site uses Portable Document Format (PDF) to view documents



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1 records

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## BYLAWS

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### BLACK HILLS SYMPHONY ORCHESTRA SOCIETY, INC.

*as amended September 10, 2009*

I. Offices	VII. Fiscal Year
II. Members	VIII. Corporate Seal
III. Board of Directors	IX. Waiver of Notice
IV. Officers	X. Indemnification
V. Office Manager	XI. Distribution of Assets Upon Dissolution
VI. Contracts, Loans, Checks, and Deposits	XII. Amendments

#### ARTICLE I. OFFICES

The principal office of the corporation in the State of South Dakota shall be located in or near the City of Rapid City, South Dakota. The corporation may have such other offices, either within the State of South Dakota, as the Board of Directors may designate or as the activities of the corporation may require from time to time.

#### ARTICLE II. MEMBERS

The corporation shall operate without members, as permitted under the South Dakota Nonprofit Corporation Act, SDCL 47-22, *et seq.*

#### ARTICLE III. BOARD OF DIRECTORS

**3.1 General Powers.** The Board of Directors shall govern the activities of the corporation.

**3.2 Number and Tenure.** The Board of Directors shall be comprised of not less than five (5) and not more than twenty-five (25) Directors, each of whom shall be elected in accordance with paragraph 3.3 below. Each Director shall hold office for a three-year term, which term shall be staggered with the terms of other Directors to provide continuity to the Board. Although the number of terms that a Director may serve is not limited, a Director may not serve more than two (2) three-year terms consecutively.

**3.3 Qualification and Election.** Directors shall be selected for their willingness to devote their time, effort, and skills to accomplish the purpose and objectives of the corporation, as set forth in the corporation's Articles of Incorporation. A person who qualifies to serve as a Director

shall first be nominated by an acting Director, and shall be elected by a majority vote of the Directors present at either a regular or special meeting of the Board at which a quorum is present.

**3.4 Removal.** A Director may be removed from the Board prior to the expiration of that Director's term whenever, in the Board's judgment, the best interests of the corporation would be served by such removal, as determined by a majority vote of the Directors present at either a regular or special meeting of the Board. Failure by an elected Director to attend three (3) consecutive regular meetings shall constitute sufficient cause for removal of that Director.

**3.5 Regular Meetings.** An annual meeting of the Board of Directors shall be held between January 1 and June 30 of each year. Notice of the annual meeting shall be given at least ten (10) days prior to such meeting by written notice mailed, faxed, e-mailed, or personally delivered to each Director at his/her home address. The Board may provide, by resolution, the time and place for the holding of additional regular meetings without notice other than such resolution.

**3.6 Special Meetings.** Special meetings of the Board of Directors may be called by, or at the request of, the President or any two (2) Directors. The person or persons calling a special meeting of the Board may fix the place for holding such meeting.

**3.7 Notice.** Notice of any special meeting shall be given at least four (4) days prior to such meeting by written notice mailed, faxed, e-mailed, or personally delivered to each Director at his/her home address. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail so addressed, with postage prepaid. Any Director may waive notice of any meeting. The attendance of a Director at a meeting shall constitute a waiver of notice of such meeting, except where a Director attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened.

**3.8 Quorum.** One third of the Directors shall constitute a quorum for the transaction of business at any meeting of the Board of Directors, but if less than one third of the Directors is present at a meeting, a majority of the Directors present may adjourn the meeting from time to time without further notice. Directors may participate in meetings by teleconference or other electronic means and shall be considered present when participating in such manner.

**3.9 Manner of Acting.** The act of the majority of the Directors present at a meeting at which a quorum is present shall be the act of the Board of Directors.

**3.10 Action Without a Meeting.** Any action that may be taken by the Board of Directors at a meeting may be taken without a meeting, if each Director signs a written consent or sends an e-mail, setting forth the action to be taken, prior to such action.

**3.11 Vacancies.** Any vacancy occurring in the Board of Directors may be filled in accordance with the selection process described in paragraph 3.3 above.



**3.12 Compensation.** Each Director shall serve without compensation. However, by resolution of the Board of Directors, each Director may be paid the expenses, if any, of attendance at each meeting of the Board. No such payment shall preclude any Director from serving the corporation in any other capacity and receiving compensation for such services.

**3.13 Presumption of Assent.** A Director who is present at a meeting of the Board of Directors at which action on any corporate matter is taken shall be presumed to have assented to the action taken, unless his/her dissent shall be entered in the minutes of the meeting, or unless he/she shall file his/her written dissent to such action with the person acting as the secretary of the meeting before the adjournment of the meeting, or shall send such dissent by first class mail or e-mail to the Secretary of the corporation immediately after the adjournment of the meeting. The right to dissent shall not be available to a Director who voted in favor of such action.

#### **ARTICLE IV. OFFICERS**

**4.1 Officers.** The officers of the corporation shall be a President, one or more Vice-Presidents, a Secretary, and a Treasurer, each of whom shall be elected by the Board of Directors. Such other officers and assistant officers as may be deemed necessary may be elected or appointed by the Board of Directors.

**4.2 Election and Term of Office.** The officers of the corporation shall be elected at each annual meeting of the Board of Directors. If the election of officers shall not be held at such meeting, such election shall be held as soon thereafter as may be convenient. Each officer shall hold office for a period of one (1) year or until the officer's successor shall have been duly elected, or until the officer shall resign, or shall have been removed in the manner provided in paragraph 4.3 below.

**4.3 Removal.** Any officer or agent may be removed from such position by the Board of Directors whenever, in the Board's judgment, the best interests of the corporation would be served by such removal, as determined by a majority vote of the Directors present at either a regular or special meeting of the Board.

**4.4 Vacancies.** A vacancy in any office because of death, resignation, removal, disqualification or otherwise, may be filled by the Board of Directors for the unexpired portion of the term.

**4.5 President.** The President shall in general supervise the activities of the corporation, subject to the control of the Board of Directors. The President shall, when present, preside at all meetings of the Board of Directors. The President may sign any deeds, mortgages, bonds, contracts, or other instruments which the Board of Directors has authorized to be executed, except in cases where the signing and execution thereof shall be expressly delegated by the Board of Directors or by these Bylaws to some other officer or agent of the corporation, or shall be required by law to be otherwise signed or executed; and in general shall perform all duties

incident to the office of President and such other duties as may be prescribed by the Board of Directors from time to time.

**4.6 Vice-President.** In the absence of the President or in the event of the President's death, inability or refusal to act, the Vice-President(s) shall perform the duties of the President, and when so acting, shall have all the power of and be subject to all the restrictions upon the President. The Vice-President(s) shall perform such other duties as from time to time may be assigned to the Vice-President(s) by the President or by the Board of Directors.

**4.7 Secretary.** The Secretary shall: (a) keep the minutes of the proceedings of the members and of the Board of Directors in one or more books provided for that purpose; (b) see that all notices are duly given in accordance with the provisions of these Bylaws or as required by law; (c) be custodian of the corporate records and of the seal of the corporation and see that the seal of the corporation is affixed to all documents the execution of which on behalf of the corporation under its seal is duly authorized; (d) keep a register of the mailing address and telephone number of each member of the Board of Directors which shall be furnished to the Secretary by such Director; and (e) in general perform all duties incident to the office of Secretary and such other duties as from time to time may be assigned to the Secretary by the President or by the Board of Directors.

**4.8 Treasurer.** The Treasurer shall, either personally or through an agent authorized by the Board of Directors: (a) have charge and custody of and be responsible for all funds of the corporation; (b) receive and give receipts for moneys due and payable to the corporation from any source whatsoever, and deposit all such moneys in the name of the corporation in such banks, trust companies or other depositories as shall be selected in accordance with the provisions of Article VI of these Bylaws; and (c) in general perform all of the duties incident to the office of Treasurer and such other duties as from time to time may be assigned to the Treasurer by the President or by the Board of Directors. If required by the Board of Directors, the Treasurer shall give a bond for the faithful discharge of the Treasurer's duties in such sum and with such surety or sureties as the Board of Directors shall determine.

**4.9 Salaries.** Each officer shall serve without compensation. However, by resolution of the Board of Directors, each officer may be paid expenses, if any, incurred in the course of performing the officer's duties.

## **ARTICLE V. OPERATIONS MANAGER**

**5.1 Operations Manager.** The corporation shall employ an Operations Manager, who shall be appointed by the Board and Directors and shall perform the duties assigned by the Board to accomplish the purpose and objectives of the corporation, including, but not limited to:

(a) Attending all regular and special meetings of the Board of Directors, and providing the Board with all necessary and requested information to allow the Board to effectively govern

the corporation, including information concerning the corporation's programs, finances, budget, and annual audit;

(b) Performing the duties described in the Operations Manager's position description adopted by the Board of Directors, and

(c) Performing all necessary and incidental administrative duties related to the operation of the corporation as may be assigned by the Board of Directors.

5.2 **Removal.** The Operations Manager shall serve at the will of the Board of Directors and may be removed, with or without cause, by a majority vote of the Directors present at either a regular or special meeting of the Board.

## **ARTICLE VI. CONTRACTS, LOANS, CHECKS, AND DEPOSITS**

6.1 **Contracts.** The Board of Directors may authorize the President, or other officer or agent, to enter into any contract or execute and deliver any instrument in the name of and on behalf of the corporation, and such authority may be general or confined to specific instances.

6.2 **Loans.** No loans shall be contracted on behalf of the corporation and no evidences of indebtedness shall be issued in its name unless authorized by a resolution of the Board of Directors. Such authority may be general or confined to specific instances.

6.3 **Checks, Drafts, Etc.** All checks, drafts or other orders for the payment of money, notes or other evidence of indebtedness issued in the name of the corporation, shall be signed by the Treasurer, Executive Director, agent or agents of the corporation and in such manner as shall from time to time be determined by resolution of the Board of Directors.

6.4 **Deposits.** All funds of the corporation not otherwise employed shall be deposited from time to time to the credit of the corporation in such banks, trust companies or other depositories as the Board of Directors may select.

## **ARTICLE VII. FISCAL YEAR**

The fiscal year of the corporation shall begin on July 1st and end on June 30th of each year.

## **ARTICLE VIII. CORPORATE SEAL**

The corporation may have a corporate seal of such design as the Board of Directors may adopt.

## **ARTICLE IX. WAIVER OF NOTICE**

Unless otherwise provided by law, whenever any notice is required to be given to any Director of the corporation under the provision of these Bylaws, or under the provisions of the Articles of Incorporation, or under the provisions of the South Dakota Nonprofit Corporation

Act, a written waiver, signed by the person or persons entitled to such notice, whether before or after the time stated therein, shall be deemed equivalent to the giving of such notice.

## ARTICLE X. INDEMNIFICATION

10.1 **Indemnification.** (a) The corporation shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending, or completed action, suit or proceeding, whether civil, criminal, administrative, or investigative, other than an action by or in the right of the corporation, by reason of the fact that such person is or was a Director, officer, employee or agent of the corporation, or is or was serving at the request of the corporation as a Director, officer, employee, or agent of another corporation, limited liability company, partnership, joint venture, trust, or other enterprise, against expenses, including attorneys' fees, judgments, fines, and amounts paid in settlement actually and reasonably incurred by that person in connection with such action, suit, or proceeding, if that person acted in good faith and in a manner that person reasonably believed to be in or not opposed to the best interest of the corporation, and, with respect to any criminal action or proceeding, had no reasonable cause to believe such conduct was unlawful. The termination of any action, suit, or proceeding by judgment, order, settlement, conviction, or upon a plea of *nolo contendere* or its equivalent, does not, of itself, create a presumption that the person did not act in good faith and in a manner which that person reasonably believed to be in or not opposed to the best interests of the corporation, and, with respect to any criminal action or proceeding, had reasonable cause to believe that such conduct was unlawful.

(b) The corporation shall also indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending, or completed action, suit or proceeding, by or in the right of the corporation to procure a judgment in its favor by reason of the fact that such person is or was a Director, officer, employee or agent of the corporation, or is or was serving at the request of the corporation as a Director, officer, employee, or agent of another corporation, limited liability company, partnership, joint venture, trust, or other enterprise, against expenses, including attorneys' fees actually and reasonably incurred by that person in connection with the defense or settlement of such action or suit if that person acted in good faith and in a manner that person reasonably believed to be in or not opposed to the best interests of the corporation.

10.2 **Exception.** Notwithstanding the provisions of the foregoing two paragraphs, no indemnification may be made in respect of any claim, issue, or matter as to which such person has been adjudged to be liable for negligence or misconduct in performance of any duty to the corporation, unless and only to the extent that the court in which such action or suit was brought determines upon application that, despite the adjudication of liability, but in view of all the circumstances of the case, such person is fairly and reasonably entitled to indemnification for such expenses which the court deems proper.

## **ARTICLE XI. DISTRIBUTION OF ASSETS UPON DISSOLUTION**

The assets of the corporation are irrevocably dedicated to scientific and/or educational purposes. No part of the net earnings, properties or assets of the corporation, on dissolution or otherwise, shall inure to the benefit of any private person or individual, or any member of the Board of Directors of the corporation. On liquidation or dissolution, all properties and assets and obligations shall be distributed and paid over to an organization dedicated to scientific and/or educational purposes, provided that then dedicated to the exempt purposes as specified in the Internal Revenue Code Section 501(c)(3).

## **ARTICLE XII. AMENDMENTS**

These Bylaws may be altered, amended, or repealed and new Bylaws may be adopted by a two-thirds (2/3) majority of the entire Board of Directors at any regular or special meeting of the Board.

*The foregoing provisions modify and supersede all Bylaws of the corporation that existed prior to the adoption of these Bylaws.*

Adopted September 10, 2009, at a regular meeting of the Board of Directors.