

**RECREATIONAL MOTOR VEHICLE SAFETY ORDINANCE
OF THE PRAIRIE ISLAND INDIAN COMMUNITY
AS AMENDED OCTOBER 9, 2003**

CHAPTER I

POLICY; ENFORCEMENT AND GENERAL PROVISIONS

Sec. 1.1. Purpose; Policy. It is the policy of the Prairie Island Indian Community Council to protect the health, safety and welfare of persons within the Reservation and to ensure the maintenance of law and order on the Reservation by regulating the registration and operation of Recreational Motor Vehicles.

Sec. 1.2. Scope. The provisions of this Ordinance apply to any enrolled member of the Prairie Island Indian Community and any non-member Indian or non-Indian who drives, operates, or is in control of any recreational motor vehicle on the Reservation.

Sec. 1.3. Definitions. Unless otherwise clearly indicated herein, the terms used in this Ordinance shall have the following meanings. If a definition for a term is not provided by the text of this Ordinance, then the term is to be given its ordinary and plain meaning.

A. *“Casino Property”* means Treasure Island Resort & Casino and the connected hotel, parking lots, sidewalks, and landscape. For purposes of this definition, Casino Property is bordered by: on the east by Frazier Road, on the west by Other Day Road, on the North by Ring Road, and on the South by Sturgeon Lake Road.

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B. “*Community*” means the Prairie Island Indian Community, a federally recognized Indian tribe organized under a Constitution and Bylaws approved by the members at Prairie Island on May 23, 1936.

C. “*Council*” means the Prairie Island Indian Community Tribal Council.

D. “*Law Enforcement Officer*” means any full or part-time law enforcement officer employed by the Prairie Island Community Police Department. It also includes “Peace Officers” as defined by Minnesota Statutes, Section 626.84, subd. 1(c)(1998), as that Section may be amended from time to time. It does not include security officers employed at Treasure Island or other business enterprises operated by the Prairie Island Community Council.

E. “*Owner*” means a person, other than a lien holder, having the property in or title to a Recreational Motor Vehicle entitled to the use or possession thereof.

F. “*Operate*” means to ride in, on or in control of a Recreational Motor Vehicle.

G. “*Operator*” means any person who operates a Recreational Motor Vehicle.

H. “*Person*” means an individual, partnership, corporation, the state and its agencies and subdivision, and any body of persons, whether incorporated or not and all members of the Community and non-member Indians and non Indians.

H. “*Recreational Motor Vehicle*” means any self-propelled vehicle and any vehicle propelled or drawn by a self-propelled vehicle used for recreational purposes, including but not limited to motorcycles, motorized scooters, motorized bicycles, snowmobiles, trail bikes, all-terrain vehicles including three and four wheel models, go carts, golf carts and motor vehicles that are licensed for highway operation but which are being used for off-road recreational purposes.

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I. **“Register”** means the act of assigning a registration number to a Recreational Motor Vehicle.

J. **“Reservation”** means all lands owned by the United States in trust for the Prairie Island Indian Community in Minnesota.

K. **“Roadway”** means a highway, street, avenue, trail or path that is used for vehicular travel, including all rights of way associated therewith, including specifically sidewalks, road shoulders and ditches.

L. **“State”** means the State of Minnesota.

M. **“Tribal Court”** means the Prairie Island Community Tribal Court.

Sec. 1.4. Enforcement Authority.

A. Authorized Law Enforcement Officers. The following Law Enforcement Officers are empowered and authorized to enforce this Ordinance:

- (1) The Officers of the Prairie Island Indian Community Police Department;
- (2) Peace Officers employed by a jurisdiction that meets the requirements of Paragraph B of this Section.

B. Limitations as to Peace Officers. In the event that the Prairie Island Indian Community establishes a Police Department, the authority granted to Peace Officers by Paragraph A, clause 2 of this Section will be effective only if and when a cooperative agreement is in effect between the Prairie Island

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Community and the relevant state or local law enforcement agency, which agreement specifies the terms and conditions under which the authority may be exercised.

Sec. 1.5. Citations.

A. Authority; Form. Citations may be issued by Law Enforcement Officers for violations of this Ordinance. Such citations will be in the form and have the effect of a summons and complaint. The Prairie Island Indian Community Chief of Police shall develop a ticket form for citations issued under this Ordinance. Each tribal citation issued shall provide the following information:

- (1) the time, date, and nature of the violation;
- (2) the name of the person cited;
- (3) the name or identification of the complainant; and
- (4) information on how to respond to the citation.

Citations issued using the ticket form regularly used by state, county, or municipal law enforcement officials for enforcement of the Minnesota State Traffic Code will be treated as citations issued using the tribal ticket form. Such foreign ticket forms must include the following information:

- (1) the time, date, and nature of the violation;
- (2) the name of the person cited;
- (3) the name or identification of the complainant; and
- (4) an indication that the ticket is issued under this Ordinance.

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In addition, supplementary information on how to respond to the citation must accompany the ticket.

B. Process. A copy of each citation issued pursuant to this Ordinance shall be promptly submitted to the Clerk of the Tribal Court. The recipient of the citation will have twenty days from the filing of the citation with the Tribal Court to respond. Where a specific fine is established for a violation of this Ordinance, the defendant may mark the citation with a plea of guilty and pay the associated fine or may mark the citation with a plea of not guilty and return it to the Tribal Court within the specified time, in which case a date for trial will be set. All trials will be before a judge without a jury. The failure of a defendant to respond to a citation within the specified time shall constitute a plea of guilty and shall constitute a waiver of the right to trial, unless the defendant can show that the failure to respond is due to excusable neglect or circumstances beyond her or his control.

C. Records. The Tribal Court shall keep a full record of every case in which a person is convicted of a violation of any part of this Ordinance and shall make that record, or an abstract thereof, available to the Department of Public Safety of the State of Minnesota upon request.

No record of the conviction of any person under this Ordinance shall be admissible as evidence in any court in any civil action, nor shall such record impair the credibility of such persons as a witness in any legal proceeding.

D. Prohibition on Traffic Quotas. Neither the Prairie Island Community Chief of Police nor any cooperating law enforcement agency may order, mandate, require, or suggest to a

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Law Enforcement Officer a quota for the issuance of citations for violations of this Ordinance on a daily, weekly, monthly, quarterly, yearly or any other periodic basis.

Sec. 1.6. Tribal Court Jurisdiction. The Tribal Court shall have original, exclusive jurisdiction to enforce the provisions of this Ordinance and to impose the penalties provided for therein upon the presentation of a complaint by a Law Enforcement Officer. The prosecution of a complaint may be carried out by the Complainant, including a Law Enforcement Officer, notwithstanding whether such person is an attorney and notwithstanding whether such person has been admitted to appear before the Tribal Court, or by a prosecutor assigned by the Community Council. If a fine is levied by the Tribal Court under this Ordinance against an enrolled member of the Community and that fine is not paid within 30 days, the Tribal Court shall have the authority to order garnishment of the member's per capita distributions in the amount of the fine. If a fine is levied by the Tribal Court under this Ordinance against an enrolled member who is a minor and that fine is not paid within 30 days, the Tribal Court shall have the authority to order the garnishment of the per capita distributions of the minor's parent or legal guardian in the amount of the fine, if such parent or legal guardian is an enrolled member of the Community.

Sec. 1.7. Severability. If any part of this Ordinance is found to be invalid by any court of competent jurisdiction or by the Department of the Interior, it shall be severed and the remaining parts shall remain in effect.

Sec. 1.8. Applicability of Indian Civil Rights Act. This Ordinance will be enforced in compliance with the protections afforded by the Indian Civil Rights Act of 1968, 25 U.S.C. §§ 1301 – 1341.

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Sec. 1.9. Effective Date. This Ordinance shall take effect immediately upon enactment.

Sec. 1.10. Repeal of Prior Ordinances. All previously enacted ordinances by the Prairie Island Indian Community dealing with Recreational Motor Vehicles are hereby repealed.

CHAPTER II

RECREATIONAL MOTOR VEHICLE REGISTRATION

Sec. 2.1. General Requirements. Except as hereinafter provided, no person shall after October 31, 2003, operate or transport any recreational motor vehicle within the Reservation unless such Recreational Motor Vehicle has been registered in accordance with the provisions of this Ordinance, except Recreational Motor Vehicles in transit by a manufacturer, distributor or dealer.

Sec. 2.2. Registration. Any person who operates a Recreational Motor Vehicle shall apply to the State of Minnesota or other state jurisdiction for a registration number, license plate and pay any applicable fee or tax, if such state law requires registration and/or licensure of the particular Recreational Motor Vehicle.

Sec. 2.3. Display of License. Any person who operates a Recreational Motor vehicle on the Reservation shall display a license plate issued pursuant to this Ordinance on the Recreational Motor Vehicle in a conspicuous place where it is easily seen.

Sec. 2.4. Registration by Persons under 18 Prohibited. No person under the age of 18 years may register a Recreational Motor Vehicle.

Sec. 2.5. Offense Level. A violation of any provision of Chapter II of this Ordinance shall constitute a Level One Offense.

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CHAPTER III

RECREATIONAL MOTOR VEHICLE OPERATION

Sec. 3.1. Operation on Streets and Highways.

A. Operators shall obey all applicable State traffic, safety and criminal laws, rules and regulations regarding the operation of Recreational Motor Vehicles.

B. No person shall operate a Recreational Motor Vehicle on a roadway or parking lot surrounding Casino Property. However, persons that are employed by the Community or Treasure Island may operate a Recreational Motor Vehicle on Casino Property if those persons are:

- (1) Using a Recreational Motor Vehicle as transportation to work for the Community or Treasure Island;
- (2) Using a Recreational Motor Vehicle as transportation from the Community or Treasure Island at the end of a work day to that person's home; or
- (3) During working hours using a Recreational Motor Vehicle to discharge their duties as an employee of the Community or Treasure Island.

C. A Recreational Motor Vehicle may make a direct crossing of a street or highway at any hour of the day provided:

- (1) The crossing is made at an angle of approximately 90 degrees to the direction of the highway and at a place where no obstruction prevents a quick and safe crossing; and
- (2) The Recreational Motor Vehicle is brought to a complete stop before crossing the shoulder or main traveled way of the highway; and
- (3) The operator yields the right of way to all oncoming traffic; and
- (4) In crossing a divided highway, the crossing is made only at an intersection of such highway with another public street or highway.

Sec. 3.2. Operation Generally.

A. It is unlawful for an Operator to travel on or across private property or assigned property on the Reservation without express permission from the property owner or assignee.

B. It is unlawful for any person to drive or operate any Recreational Motor Vehicle in the following ways:

- (1) At a rate of speed greater than reasonable or proper under all the surrounding circumstances, and in no event a speed of more than 30 m.p.h.;
- (2) In a careless, reckless or negligent manner so as to endanger the person or property of another or to cause injury or damage thereto;
- (3) While under the influence of intoxicating liquor, narcotics or other drugs that impair a person's ability to operate a motorized vehicle;
- (4) Without a lighted head and tail light;
- (5) On the Community Pow Wow Grounds;
- (6) Without a helmet; and
- (7) After 10:00 p.m. and before 6:00 a.m..

Sec. 3.3. Youthful Operators: Prohibitions.

A. Under 14 Years of Age – No Crossing of or Operation on Roadways. No person under the age of 14 shall make a direct crossing of a trunk, county state aid, county highway, street or private road as the operator of a Recreational Motor Vehicle or operate a Recreational Motor Vehicle upon a Roadway within the Reservation.

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B. Under 12 Years of Age – No Operation. No person under the age of 12 shall operate a Recreational Motor Vehicle on the Reservation.

C. Between 12 – 14 Years of Age – Adult Accompaniment. A person between 12 and 14 years of age may operate a Recreational Motor Vehicle on the Reservation, with adult accompaniment, if she or he has proof in her or his immediate possession that she or he has satisfactorily completed a recognized safety education course. Such operators may not make a direct crossing of a trunk, county state aid, county highway, or street.

D. Between 14 and 18 Years of Age – Roadway Crossing Requirements. A person 14 years of age or older, but less than 18 years of age, may make a direct crossing of a trunk, county state aid, county highway, or street only if she or he has proof that she or he has satisfactorily completed a recognized safety education course.

Sec. 3.4. Signal from Officer to Stop. It is a violation of this Ordinance for the operator of a Recreational Motor Vehicle, after receiving a visual or audible signal from a Law Enforcement Officer to come to a stop, to (a) operate the vehicle in willful or wanton disregard of such signal, or (b) interfere with or endanger a Law Enforcement Officer or any other person or vehicle, or (c) increase her or his speed or attempt to flee or elude the Law Enforcement Officer.

Sec. 3.5. Offense Level. A violation of Section 3.1 of this Ordinance constitutes a Level One Offense. A violation of Section 3.2.A (4) (6) & (7) of this Ordinance constitutes a Level One Offense. A violation of Section 3.2.A (1), (2), (3) & (5) of this Ordinance constitutes a Level Two Offense. A violation of Section 3.3 of this Ordinance constitutes a Level Two Offense. A violation of Section 3.4 of this Ordinance constitutes a Level Two Offense.

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Sec. 3.6. Organized Contests. Nothing in this Ordinance shall prohibit the use of Recreational Motor Vehicles within the right of way of any roadway, shoulder, or inside bank or slope of any trunk, county state aid, or county highway in the Reservation in any organized contest, subject to the consent of the Community Chief of Police or the Community Council.

CHAPTER IV.

PENALTIES

Sec. 4.1. Fine Categories. For the purposes of this Ordinance the following penalties are associated with the following fine categories:

<u>Violation</u>	<u>Fine</u>
Level 1 Offense	a civil fine not greater than \$250, or Community Service, or both.
Level 2 Offense	a civil fine not greater than \$500, or Community Service, or both.

Sec. 4.2. Fine Schedule. The Community Council will develop a fine schedule for specific sections of this Ordinance. The fine schedule will specify fixed monetary fines to be paid by persons who wish to plead guilty to a violation of this Ordinance and to pay a fine without a Court trial. The fine schedule may be amended once a year and a complete fine schedule will be separately posted and made available for public inspection by any person subject to this Ordinance.

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All fines collected under this Ordinance shall be payable directly to the clerk of the Tribal Court. No Law Enforcement Officer may accept payment of a fine under this Ordinance.

Sec. 4.3. Repeat Offenders. The Court, in its sole discretion, may double the dollar amount of a civil fine if any person is convicted of a third offense under this Ordinance within any 12 month period.

Sec. 4.4. Seizure and Forfeiture of Recreational Motor Vehicles. The Tribal Court may direct a Law Enforcement Officer to seize the Recreational Motor Vehicle used by a violator of the Ordinance, hold and possess the Recreational Motor Vehicle until and unless the violator of this Ordinance fully satisfies any fines, penalties or sums due and owing under this Ordinance, and completes any safety or other training courses that the Court may require.

If a violator is convicted of three offenses of this Ordinance in any twelve month period, the Tribal Court may direct a Law Enforcement Officer to seize the Recreational Motor Vehicle used by the violator of this Ordinance and sell the Recreational Motor Vehicle at a public sale and the proceeds of that sale shall be deposited and used for the repair of Reservation property.