



**Prairie Island Indian Community  
Alcohol and Controlled Substance Ordinance<sup>1</sup>**

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<sup>1</sup> Note of Adoption and Amendment: The Community Council adopted the Alcohol and Controlled Substance Ordinance on August 11, 2004, by Resolution Number 04-08-11-104, and amended it on March 15, 2005, by Resolution Number 05-03-15-51 to incorporate a minor amendment requested by the Minneapolis Regional Office of the Department of Interior, Bureau of Indian Affairs. The Community Council reformatted the Ordinance on December 11, 2024, by Resolution Number 24-12-11-296, to increase the usability of this Ordinance and of tribal law and to add Notes of Amendment summarizing the legislative history of this Ordinance. The Notes of Amendment are for convenience only and should not be relied on as mandatory authority.

**Section 1. Short Title.** This Ordinance shall be known and may be cited as the Prairie Island Indian Community Alcohol and Controlled Substance Ordinance.

**Section 2. Statement of Purpose, Findings, and Authority.**

- a. Purpose. It is the policy of the Community Council to protect the safety and welfare of persons within the Reservation and to ensure the maintenance of law and order on the Reservation by regulating the purchase, possession, and consumption of Alcoholic Beverages by persons under the age of 21 years, by regulating the possession or consumption of Alcoholic Beverages in public places during Community events including but not limited to the annual Summer and Winter Pow Wows, and by prohibiting the purchase, possession, or use of Controlled Substances by all persons on the Reservation.
- b. Findings. [reserved].
- c. Authority. [reserved].

**Section 3. Definitions.** Unless otherwise clearly indicated herein, the terms used in this Ordinance shall have the meanings given them in Minn. Stat., Section 340A.101 (2023), as that Section may be amended from time to time. If a definition for a term is not provided by the text of this Ordinance, or by Minn. Stat., Section 340A.101 (2023), then the term is to be given its ordinary and plain meaning.

- a. “Alcoholic Beverage” means any beverage as that term is defined in the Community's Liquor Control Ordinance.
- b. “Community” means the Prairie Island Indian Community in the State of Minnesota, a federally recognized Indian Tribe.
- c. “Community Council” means the constitutionally authorized governing body of the Community, also referred to as the “Tribal Council.”
- d. “Community Member” or “Member” means an enrolled member of the Prairie Island Indian Community.
- e. “Consume” means both the ingestion of an Alcoholic Beverage or Controlled Substance and the physical condition of having ingested an Alcoholic Beverage or Controlled Substance.
- f. “Controlled Substance” means a drug, substance, or immediate precursor as identified in Schedules I through V of Section 152.02 of Minnesota Statutes, as that Section may be amended from time to time.
- g. “Drug Paraphernalia” means all equipment, products, and materials of any kind, except those items used in conjunction with permitted uses of Controlled Substances under the Uniform Controlled Substances Act, which are knowingly or intentionally used primarily in:
  - 1. manufacturing a Controlled Substance;
  - 2. injecting, ingesting, inhaling, or otherwise introducing into the human body a Controlled Substance;

- 3. testing the strength, effectiveness, or purity of a Controlled Substance; or
  - 4. enhancing the effect of a Controlled Substance.
- h. “Law Enforcement Officer” means any full or part-time officer employed by the Prairie Island Indian Community Police Department, including the Chief of Police, unless the context clearly indicates otherwise. It also includes "Peace Officers" as defined in Minnesota Statutes, Section 626.84, subd. 1(c) (2023), as that Section may be amended from time to time, subject to the limitations contained in Section 5(b) of this Ordinance.
  - i. “Prairie Island Indian Community Reservation” or “Reservation” means all lands and waters within the exterior boundaries of the Prairie Island Indian Community Reservation, notwithstanding the issuance of any patent, easement, or rights-of-way running through the Reservation, ceded lands, and such other lands without such boundaries as may be added by purchase, exchange, transfer, gift, or grant, or which are under the jurisdiction of the Community.
  - j. “Possess” means and includes, but is not limited to, being in a room, any motorized vehicle, including snowmobiles and ATVs, a boat, trailer, or public or private place where Alcoholic Beverages or Controlled Substances are openly displayed and accessible. Lack of knowledge of the existence or lack of accessibility to such Alcoholic Beverages or Controlled Substances shall be an affirmative defense that must be asserted and established by a preponderance of the evidence.
  - k. “Tribal Court” means the Prairie Island Mdewakanton Dakota Community Tribal Court.

**Section 4. Applicability.** The provisions of this Ordinance apply to all persons who purchase, Possess, or Consume Alcoholic Beverages or Controlled Substances on the Reservation in violation of this Ordinance.

**Section 5. Enforcement and General Provisions.**

- a. Enforcement Authority.
  - 1. Authorized Law Enforcement Officers. The Following Law Enforcement Officers are empowered and authorized to enforce this Ordinance:
    - A. The Prairie Island Community Chief of Police and Officers of the Prairie Island Indian Community Police Department; and
    - B. Peace Officers employed by jurisdictions that meet the requirements of subsection (a)(2) of this Section.
  - 2. Limitation of Authority as to Peace Officers. The authority granted to Peace Officers in subsection (a)(1) of this Section will be effective only if and when a cooperative agreement is in effect between the Prairie Island Indian Community and the relevant state or local law enforcement agency.
  - 3. Entry of Dwellings. Authorized Law Enforcement Officers shall have the

authority to enter private dwellings for the purpose of enforcing this Ordinance if the Officer has probable cause to believe that the Ordinance is being violated, either subject to the authority of a Tribal or State Court search warrant, or as permitted by Minnesota law regarding warrantless searches.

4. 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 then has twenty (20) days from the filing of the citation with the Tribal Court to respond. 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. The failure of a defendant to respond to the citation within the specified time will be considered a plea of guilty and a waiver of the right to a trial, unless the defendant can show that the failure to respond was due to excusable neglect or exigent circumstances beyond their control.

b. Jurisdiction.

1. The Tribal Court shall have the exclusive jurisdiction to enforce the provisions of this Ordinance and impose the penalties provided for therein upon the presentation of a complaint by the Community Council, an Officer of the Prairie Island Community Police Department, or other Authorized Law Enforcement Officer. The prosecution of a complaint may be carried out by the complainant, including an Authorized 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.
2. Nothing in this Section shall be construed to preclude or limit a State Court's ability to afford full faith and credit to an order of the Tribal Court issued under the authority of this Ordinance.

c. Penalties.

1. Fine Categories.

A. 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 \$500
Level 2 Offense	a civil fine not greater than \$1000

B. The Tribal Court shall impose all fines under this Ordinance, and 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.

2. Nonpayment of Fines. If a fine levied by the Tribal Court under this Ordinance against a Member of the Community is not paid within thirty (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 the fine levied by the Tribal Court under this Ordinance against a Community Member who is a minor 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 a Member of the Community, or to impose the fine or Community service or both against a parent or legal guardian who is not a Member of the Community.

3. Fines – Repeat Offenders. Unless otherwise provided in this Ordinance, if a person is convicted of a second offense under this Ordinance within a twelve (12) month period, the Tribal Court may, in its sole discretion, double the dollar amount of the applicable fine.
4. Other Penalties Authorized.
  - A. Trespass. If a non-member is convicted of a Controlled Substance offense, the Tribal Court shall also have the authority to trespass non-members from the Community for a fixed period, or permanently as the Court may deem appropriate in its sole discretion.
  - B. Chemical Dependency and Alcohol Assessments. If a Community Member is convicted of a Controlled Substance violation, the Tribal Court shall also have the authority to require that the Community Member submit to a chemical dependency assessment and to follow all recommendations resulting from that assessment. If a Community Member is convicted of a second alcohol-related offense in a twelve (12) month period, the Tribal Court shall also have the authority to require that the Community Member submit to an alcohol assessment and to follow all recommendations resulting from that assessment.
- d. Penalties Civil in Nature; Applicability of Indian Civil Rights Act. The penalties authorized by this Ordinance are civil in nature and do not preclude or affect the ability of the State of Minnesota to criminally prosecute offenders in the Courts of the State of Minnesota based on the same occurrence. 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.

## **Section 6. Alcohol.**

- a. Consumption. It is a violation of this Ordinance for any person under the age of 21 years to consume Alcoholic Beverages. A violation of this subsection shall constitute a Level 1 Offense.
- b. Purchase.
  1. It is a violation of this Ordinance for any person:
    - A. to sell, barter, furnish, or give Alcoholic Beverages to a person under 21

years of age;

- B. under the age of 21 years to purchase or attempt to purchase any Alcoholic Beverage; or
  - C. to induce a person under the age of 21 years to purchase or procure any Alcoholic Beverage or to lend or knowingly permit the use of the person's driver's license, permit, Minnesota identification, or other form of identification by a person under the age of 21 years for the purpose of purchasing or attempting to purchase an Alcoholic Beverage.
2. A violation of subsections (b)(1)(A) or (C) of this Section shall constitute a Level 2 Offense. A violation of subsection (b)(1)(B) of this Section shall constitute a Level 1 Offense.
- c. Possession. It is a violation of this Ordinance for a person under the age of 21 years to possess any Alcoholic Beverage. A violation of this subsection shall constitute a Level 1 Offense.
  - d. Misrepresentation of Age. It is a violation of this Ordinance for a person under the age of 21 years to claim to be 21 years old or older for the purpose of purchasing, possessing, or consuming Alcoholic Beverages. A violation of this subsection shall constitute a Level 1 Offense.
  - e. Community Events. It is a violation of this Ordinance for any person to possess or consume Alcoholic Beverages on the Reservation (with the exception of homesite assignments and business enterprises of the Prairie Island Indian Community, including but not limited to, Treasure Island Resort & Casino and Mount Frontenac Golf Course) during Community events, including specifically, but not limited to, the Community's annual Summer and Winter Pow Wows and such other events as the Community Council may identify by formal Resolution and upon notice. A violation of this subsection shall constitute a Level 1 Offense.

#### **Section 7. Controlled Substances.**

- a. It is a violation of this Ordinance for any person to manufacture, deliver, receive, sell, Possess, or Consume, without a valid pharmacist license or without a valid prescription from a medical doctor, a Controlled Substance. A violation of this subsection shall constitute a Level 2 Offense.
- b. It is a violation of this Ordinance for any person to Possess Drug Paraphernalia. A violation of this subsection shall constitute a Level 1 Offense.

#### **Section 8. Records.**

- a. 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.
- b. 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.

**Section 9. Miscellaneous Provisions.**

- a. Severability. If any provision of this Ordinance or its application to any person or circumstance is held invalid, the remainder of this Ordinance, or the application of the provision to other persons or circumstances is not affected.
- b. [reserved].