



Prairie Island Indian Community Personal Cannabis Use, Cultivation, and Possession Ordinance¹

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¹ Notes of Adoption: The Community Council adopted this Ordinance on May 15, 2024, by Resolution Number 24-05-15-129.

Section 1. Short Title. This Ordinance shall be known and may be cited as the Prairie Island Indian Community Personal Cannabis Use, Cultivation, and Possession Ordinance.

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

- a. Purpose. This Prairie Island Indian Community Personal Cannabis Use, Cultivation, and Possession Ordinance regulates matters relating to individual use and possession of Cannabis within the Community’s Indian Country. Nothing in this Ordinance shall limit the rights of a Person licensed to participate in Commercial Cannabis Activity under the Prairie Island Indian Community Cannabis Regulatory Ordinance.
- b. Findings. The Findings of the Prairie Island Indian Community Cannabis Regulatory Ordinance apply to this Ordinance.
- c. Authority. [reserved].

Section 3. Definitions. The Definitions of the Prairie Island Indian Community Cannabis Regulatory Ordinance apply to this Ordinance. Additionally, the following terms are defined as follows:

1. “Community Homesite Assignment” means the land to which a Community Member has been granted a license to occupy for residential purposes; and as this term is otherwise defined in the Prairie Island Indian Community Homesite Assignment Ordinance.
2. “Residence” means the place where a person physically dwells or abides.

Section 4. Applicability. This Ordinance applies to: (i) Community members in the Community’s Indian Country; and (ii) non-members in the Community’s Indian Country who are subject to the Community’s regulatory jurisdiction by consent, which may be established by affirmative actions, including patronizing a Community-owned or regulated business.

Section 5. Effect on Other Community Laws.

- a. Effect on Alcohol and Controlled Substances Ordinance Sections 1.3(C) and 1.3(D). The term “controlled substance” as defined in Alcohol and Controlled Substance Ordinance Section 1.3(C) does not include Commercial Cannabis, Cannabis for Personal Use or Medical Use. The term “drug paraphernalia” as defined in Alcohol and Controlled Substance Ordinance Section 1.3(D) does not include items used in conjunction with Commercial Cannabis, Cannabis for Personal Use or Medical Use.
- b. Effect on Alcohol and Controlled Substances Ordinance Section 1.6. Alcohol and Controlled Substance Ordinance Section 1.6, which creates a civil offense for violations of the Alcohol and Controlled Substance Ordinance, shall not be interpreted or construed to permit a civil offense for conduct permitted by this Ordinance or the Prairie Island Indian Community Cannabis Regulatory Ordinance.
- c. Limitations on Jurisdiction.
 1. The Prairie Island Community Chief of Police, Officers of the Prairie Island Indian Community Police Department, and any other Authorized Law

Enforcement Officers, as the term is defined in the Alcohol and Controlled Substance Ordinance Section 1.3(E), shall not enforce the Alcohol and Controlled Substance Ordinance against any person engaging in conduct permitted by this Ordinance.

2. The Prairie Island Indian Community Tribal Court shall not have jurisdiction over any citations issued under the Alcohol and Controlled Substance Ordinance insofar as such citation is directed at conduct permitted by this Ordinance.

Section 6. Possession and Use; Personal Cultivation.

- a. Possession by Adults Permitted. Adults 21 years of age and older may:
 1. possess or Transport two ounces or less of Adult Use Cannabis Flower in a public place;
 2. possess two pounds or less of Adult Use Cannabis Flower in the individual's private Residence;
 3. possess or Transport eight grams or less of Adult Use Cannabis Concentrate;
 4. possess or Transport Adult Use Cannabis Edible products with a combined total of 800 milligrams or less of tetrahydrocannabinol; and
 5. use, possess, or Transport cannabis paraphernalia.
- b. Adult Use Permitted.
 1. Subject to the limitations in Section 6(b)(2)(C) and (D), adults age 21 years or older may use Adult Use Cannabis Products in the following locations:
 - A. a private Residence, including the individual's curtilage or yard;
 - B. on private property that is not generally accessible by the public, unless the individual is explicitly prohibited from consuming Cannabis Products on the property by the owner of the property;
 - C. on the premises of an establishment or event licensed to permit On-Site Consumption; and
 - D. in public outdoor spaces.
 2. An individual may not:
 - A. use Cannabis Products in a motor vehicle;
 - B. use Cannabis Products in any Community government building;
 - C. use Cannabis Products in a manner that involves the inhalation of smoke, aerosol, or vapor at any location where smoking is prohibited by law, regulation, or policy of the location, or in any location where the smoke, aerosol, or vapor could reasonably be expected to be inhaled by a minor;
 - D. use Cannabis Products in any location where Cannabis use is prohibited by the owner, manager, or other entity with authority over the location, and notice of such prohibition is posted or otherwise communicated;

- E. operate a motor vehicle or watercraft while under the influence of Cannabis.
 - F. use Cannabis in violation of employee rules or other Community policy; or
 - G. use Cannabis in violation of State law, unless Community law expressly permits such use.
- c. Home Cultivation Permitted.
1. Cultivation for Personal Use. Cultivation conducted in compliance with this Section shall not be considered Commercial Cannabis Activity requiring a License, but instead shall be considered Cannabis for Personal Use.
 2. Cultivation Limits. An individual 21 years of age or older may grow up to eight Cannabis Plants at a Community Homesite Assignment used as his or her primary Residence, including in the yard. If there are two or more individuals 21 and over living at a single Community Homesite Assignment at their primary Residence, the limit for growing Cannabis Plants on that Community Homesite Assignment increases to twelve. In no instance may any Community Homesite Assignment have more than twelve Cannabis Plants onsite, regardless of how many individuals 21 years or older reside there. Cultivation under this Section must be conducted in an enclosed, locked space that is not open to public view; and, if such Cultivation is conducted in a greenhouse or other enclosure separate from the Residence structure, that such greenhouse or enclosure is set back at least six feet from the property line.
 3. Exception to the Possession Limits for Personal Cultivation. An adult age 21 years or older may lawfully possess in their Residence all Cannabis Flower cultivated at that Residence in compliance with this Section, notwithstanding the limitations that would otherwise apply to possession in a Residence, and such possession shall be considered Cannabis for Personal Use.
- d. Possession, Cultivation, and Use by Patients Enrolled in a Medical-Use Registry. The provisions of this Chapter apply to patients enrolled in a medical-use registry except that any enrolled patient, regardless of age: (i) may possess or use medical cannabis products; (ii) may use and possess medical cannabis products with Cannabinoid concentrations greater than what is allowable for Adult-Use Cannabis Products if approved by the Commission under Section 7(b) of the Cannabis Regulatory Ordinance; and (ii) may Cultivate Cannabis and possess Cannabis Products in amounts greater than otherwise permitted under this Ordinance if approved by the Commission under Section 7(b) of the Cannabis Regulatory Ordinance.

Section 7. Penalties.

- a. Violation by Member. A Community member who violates this Ordinance may be subject to a fine of \$250, which may be increased up to \$2,500 for multiple offenses within any 12-month period. This fine schedule may be amended by the Community Council once a year and a complete fine schedule must be made available for public inspection by any person subject to this Ordinance. All fines collected under this

Ordinance shall be payable directly to the clerk of the Tribal Court. No officer of the PIPD may accept payment of a fine under this Ordinance.

- b. Violation by a Non-Member. A non-Member who violates this Ordinance may be removed from, and prohibited from re-entering, the Community’s Indian country, or certain locations within the Community’s Indian country for: (i) a first offense, 1 month; (ii) a subsequent offense, 3 months; and (iii) for more than 3 offenses, indefinitely. In lieu of such removal, the non-Member may choose to pay the fine that would apply to a Community member under Section 7(a).
- c. Relation to Other Offenses and Penalties. The penalties provided in this Ordinance shall be in addition to any penalties that may apply to the conduct under other applicable law.
- d. Authority/Form. Civil citations may be issued by the Prairie Island Police Department (“PIPD”) for violations of this Ordinance. Such citations will be in the form and have the effect of a summons and complaint. The PIPD shall develop a ticket form for citations issued under this Ordinance. The PIPD may seize any cannabis product possessed in violation of this Ordinance at the time it issues a citation for such possession. Any such seized product shall be kept as evidence for associated civil proceedings, and returned to citation recipient if they are found not liable, and destroyed if the citation recipient is found liable. 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.
- e. Process.
 - 1. Procedure for Adjudication of Citation. A copy of each citation issued pursuant to this Ordinance shall be promptly submitted to the clerk of the Tribal Court with the court date noted on the citation. The recipient of the citation then has until the court date to respond. Where a specific civil penalty is established for a violation of this Ordinance, the recipient of the citation may mark the citation with an admission of liability and pay the associated fine or agree to the other civil remedy, in which case the recipient of the citation does not need to appear on the court date. The recipient of the citation has the option to deny liability and return it to the Tribal Court before the court date noted on the citation, and in this instance, the recipient of the citation must appear at the Tribal Court on the court date noted on the citation. All trials will be before the judge without a jury. The failure of a recipient of a citation to respond to the citation within the specified time shall constitute an admission of liability and a waiver of the right to trial, unless the recipient of the citation can show that the failure to respond is due to circumstances beyond her or his control. If the recipient of the citation does not

appear before the court if so required, the court in its discretion may impose civil remedies permitted under this Ordinance.

2. Appeals. Appeals from the Tribal Court's decisions or orders shall be made to the Tribal Appellate Court pursuant to the Rules of Civil and Appellate Procedure. The Respondent shall have the right to an expedited hearing. The appeal shall be limited to a review of the proceedings of the Tribal Court and shall not be a de novo hearing.
 3. Jurisdiction. The Tribal Court shall have jurisdiction to enforce the provisions of this Ordinance and to impose the civil penalties provided for therein upon the presentation of a citation from the PIPD. The prosecution of a complaint may be carried out by an officer of the PIPD 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 levied by the Tribal Court under this Ordinance against an enrolled member of the Community is not paid within 30 days, the Tribal Court shall have the authority to order garnishment of the member's per capita distributions for the amount of the fine. If the fine levied by the Tribal Court under this Ordinance against an enrolled 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 for the amount of the fine, if such parent or legal guardian is an enrolled member of the Community.
- f. Penalties Civil in Nature. The penalties authorized by this Ordinance are civil in nature.

Section 8. Miscellaneous Provisions.

- a. No Waiver of Sovereign Immunity. Nothing in this Ordinance shall be or be deemed to be a waiver of the Community's sovereign immunity.
- b. 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.