

**PRAIRIE ISLAND INDIAN COMMUNITY
FIREARM ORDINANCE**

Adopted, as Amended, by Resolution No. 03-07-10-55
of the Prairie Island Community Council
On July 10, 2003

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FIREARM ORDINANCE**

Section 1.1. Policy. It is the policy of the Prairie Island Indian Community to protect the safety and welfare of persons within the Community by strictly regulating the carrying and discharge of firearms within the Community.

Section 1.2. Definitions.

A. "The Community" means all lands owned by the United States in trust for the Prairie Island Indian Community in Minnesota.

B. "Firearm" means a gun that discharges shot or a projectile by means of an explosive, a gas, or compressed air, and includes pistols.

C. "Pistol" means a weapon designed to be fired by the use of a single hand and with an overall length less than 26 inches, or having a barrel or barrels of a length less than 18 inches in the case of a shotgun or having a barrel of a length of less than 16 inches in the case of a rifle (a) from which may be fired or ejected one or more solid projectiles by means of a cartridge or shell or by the action of an explosive or the igniting of flammable or explosive substances; or (b) for which the propelling force is a spring, elastic band, carbon dioxide, air or other gas, or vapor. Pistol does not include a device firing or ejecting a shot measuring .18 of an inch, or less, in diameter and commonly known as a "BB gun," a scuba gun, a stud gun or nail gun used in the construction industry or children's pop guns or toys.

Section 1.3. Applicability. This Ordinance shall apply to members and non-members of the Prairie Island Indian Community, whether or not such persons may have a gun permit from the United States or the State of Minnesota or any political subdivision of the State.

Section 1.4. Exclusion for Law Enforcement Officers

Notwithstanding Section 1.3 above, this Ordinance shall not apply to on-duty law enforcement officers of the United States, on-duty peace officers as defined by Minnesota state law, or on-duty police officers of the Prairie Island Indian Community.

Section 1.5. Transport and Carrying of Firearm.

A. Transport in a Motor Vehicle. No person shall transport in a motor vehicle any firearm at any time within the Community outside the person's own residence unless the firearm is unloaded (without ammunition in the barrel or magazine, if a magazine is in the firearm). In the case of a pistol, it must also be fully contained in a locked gunbox. In the case of a firearm other than a pistol, it must also be enclosed in a gun case expressly made to contain a firearm, and the case must fully enclose the firearm by being zipped, snapped, buckled, tied, or otherwise fastened, and no portion of the firearm may be exposed.

B. Carrying in an Open Manner. No person shall carry on his/her person in an open manner any firearm at any time within the Community outside the person's own residence unless the firearm is unloaded (without ammunition in the barrel or magazine, if a magazine is in the firearm). In the case of a pistol, it must also be fully contained in a locked gunbox. In the case of a firearm other than a pistol, it must also be enclosed in a gun case expressly made to contain a firearm, and the case must fully enclose the firearm by being zipped, snapped, buckled, tied, or otherwise fastened, and no portion of the firearm may be exposed.

C. Carrying in a Concealed Manner. No person shall carry on his/her person in a concealed manner, any firearm at any time within the Community outside a person's own residence.

D. Carrying in a Prairie Island Indian Community-Owned Building or Facility. No person shall carry on his/her person in either an open or concealed manner any firearm into a Prairie Island Indian Community-owned building or facility, or into a Prairie Island Indian Community-owned parking lot or facility.

E. Subsections A. and B. shall not apply if:

1. The person is actually hunting pursuant to a valid Prairie Island Indian Community hunting permit within areas designated for hunting by duly enacted resolution of the Prairie Island Indian Community Tribal Council, or
2. The person is shooting nuisance animals with a firearm other than a rifle on property assigned to the person, and if the person has a permit from the Prairie Island Indian Community Tribal Council to shoot nuisance animals.

F. No Prairie Island Indian Community law enforcement officer shall grant to any person a permit to carry or transport a firearm pursuant to any federal, state or tribal law.

Section 1.6. Discharge of Firearm. No person shall discharge a firearm at any time within the Community. This section shall not apply if:

A. The person is actually hunting pursuant to a valid Prairie Island Indian Community hunting permit within areas designated for hunting by duly enacted resolution of the Prairie Island Indian Community Tribal Council, or

B. The person is shooting nuisance animals with a firearm other than a rifle on property assigned to the person, and if the person has a permit from the Prairie Island Indian Community Tribal Council to shoot nuisance animals.

Section 1.7. Discharge of Firearm So As To Endanger. No person shall discharge a firearm at any time within the Community in such a way that may endanger the health or safety of any person or that may endanger any other person's property.

Section 1.8. Penalties for Violation. Any person who violates any provision of this Ordinance shall be subject to the following civil penalties, in addition to any other applicable penalties under state or federal law:

A. For a violation of section 1.5.A and 1.5.B:

1. For conviction of a first offense, a civil fine of five hundred dollars.
2. For conviction of a second or more offense, a civil fine of one thousand dollars.
3. Conviction of a third or more offense, a civil fine of one thousand, five hundred dollars. The conviction of a third or more offense shall also constitute conclusive evidence that the person poses a serious threat to the Community health, safety, or welfare, based upon which the Tribal Council may direct that the person be excluded from the Reservation for a period of not less than six months and not more than eighteen months.
4. If the Prairie Island Indian Community Tribal Court makes a specific finding of extraordinary or aggravated circumstances, the court may impose penalties of up to triple the above fines.

B. For a violation of section 1.5.C. or 1.5.D., Civil Fines:

1. For conviction of a first offense, a civil fine of seven hundred and fifty dollars.

2. For conviction of a second or more offense, a civil fine of one thousand, five hundred dollars.
 3. Conviction of a third or more offense, a civil fine of five thousand dollars. The conviction of a third or more offense shall also constitute conclusive evidence that the person poses a serious threat to the Community health, safety, or welfare, based upon which the Tribal Council may direct that the person be excluded from the Reservation for a period of not less than six months and not more than eighteen months.
 4. If the Prairie Island Indian Community Tribal Court makes a specific finding of extraordinary or aggravated circumstances, the court may impose penalties of up to triple the above fines.
- C. For a violation of section 1.5.C. or 1.5.D., 1.6, and 1.7 Seizure and Forfeiture:
1. A law enforcement officer of the United States, a peace officer as defined by Minnesota state law, or a police officer of the Prairie Island Indian Community may seize any firearm that is carried in violation of section 1.5.C. or 1.5.D., 1.6 or 1.7.
 2. A firearm that is seized pursuant to this section shall be held by the law enforcement department effecting the seizure, subject to the order of the Prairie Island Indian Community Tribal Court.
 3. Unless the Prairie Island Indian Community Tribal Court orders otherwise, a firearm seized pursuant to this section shall be forfeited when the person from whom the firearm was seized is convicted of a violation of section 1.5.C. or 1.5.D., 1.6 or 1.7 of this Ordinance. A firearm seized pursuant to this section shall be returned to the person from whom it was seized upon acquittal or dismissal of the charged violation.
 4. Forfeited firearms may be destroyed or retained for use at the discretion of the Community Chief of Police.

D. For a violation of section 1.5.C. or 1.5.D., 1.6 and 1.7, Trespass and Removal

1. A person violating section 1.5.C or 1.5.D., 1.6 or 1.7 shall be considered a trespasser on Community land and a law enforcement officer of the United States, a peace officer as defined by Minnesota Law, or a police officer of the Prairie Island Indian Community may remove such person from a Community facility or from Community land.

E. For a violation of section 1.6:

1. For conviction of a first offense, a civil fine of one thousand, five hundred dollars.
2. For conviction of a second or more offense, a civil fine of three thousand dollars, and a suspension of per capita distributions to the person (if such person is a Qualified Member of the Community) for the two months following conviction.
3. Conviction of a third or more offense, a civil fine of five thousand dollars. The conviction of a third or more offense shall also constitute conclusive evidence that the person poses a serious threat to the Community health, safety, or welfare, based upon which the Tribal Council may direct that the person be excluded from the Reservation for a period of not less than six months and not more than eighteen months.
4. If the Prairie Island Indian Community Tribal Court makes a specific finding of extraordinary or aggravated circumstances, the court may impose penalties of up to triple the above fines.

F. For a violation of section 1.7:

1. For conviction of a first or more offense, a civil fine of five thousand dollars. Such conviction shall also constitute conclusive evidence that the person poses a serious threat to the Community health, safety, or welfare, based upon which the Tribal Council shall direct that the person be excluded from the Reservation for a fixed period of not less than six months and not more than eighteen months, or both.

G. All penalties imposed by the Tribal Court under this Ordinance shall be paid within 30 days of the date of imposition. In the event that Tribal members do not pay an imposed penalty within 30 days of imposition, the applicable fine will be deducted from the member's per capita distribution.

- H. All penalties imposed by the Tribal Court under this Ordinance shall be paid to the Clerk of the Prairie Island Indian Community Tribal Court.

Section 1.9. Jurisdiction of Prairie Island Indian Community Tribal Court. The Prairie Island Indian Community Tribal Court shall have jurisdiction to enforce the provisions and penalties of this Ordinance upon a presentation of a complaint by the Prairie Island Indian Community Tribal Council or persons designated by the Council, by an adult member of the Prairie Island Indian Community, or by a law enforcement officer of the United States, a peace officer as defined by Minnesota state law, a police officer of the Prairie Island Indian Community, or a security officer authorized by the Prairie Island Indian Community Tribal Council. Prosecution of the complaint may be carried out by the Complainant or by a person designated by the Prairie Island Indian Community Tribal Council notwithstanding whether such person is an attorney and notwithstanding whether such person has been admitted to practice law before the Prairie Island Indian Community Tribal Court.

Section 1.10. Severability. If any part of this Ordinance is found to be invalid by a court of competent jurisdiction or by the Department of the Interior, it shall be severed and the remaining parts of the Ordinance shall remain in full force and effect.

Section 1.11. 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.

Section 1.12. Effective Date. This Ordinance shall take effect immediately upon enactment.