

# PRAIRIE ISLAND MDEWAKANTON DAKOTA COMMUNITY

## LIQUOR CONTROL ORDINANCE

### PART I: POLICY AND DEFINITIONS.

#### Section 1. Public Policy Declared.

This Ordinance shall be cited as the Prairie Island Mdewakanton Dakota Community Liquor Control Ordinance and under the inherent sovereignty of the Prairie Island Indian Community in the State of Minnesota shall be deemed an exercise of the Tribe's power, for the protection of the welfare, health, peace, morals, and safety of the people of the Community. It is further the Tribe's policy to assure that any transaction, importation, sale or consumption involving an alcoholic beverage, while within the Tribe's jurisdiction shall occur in strict compliance with this Ordinance, the laws of the United States and the State of Minnesota. Nothing in this Ordinance shall be construed as a waiver of the Prairie Island Indian Community's sovereign immunity.

#### Section 2: Definitions.

- a) Alcoholic beverage: shall mean any intoxicating liquor, low point beer, or any wine, as defined under the provisions of this Ordinance.
- b) Application: shall mean a formal written request for the issuance of a license supported by a verified statement of facts.
- c) Council: shall mean the Community Council of the Prairie Island Indian Community of the State of Minnesota, duly elected in accordance with the provisions of the Constitution of the Prairie Island Indian Community.
- d) Establishment: shall mean any liquor store or any on or off-sale dealer.
- e) High point beer: shall mean any beer having an alcoholic content in excess of three and two-tenths per centum (3.2%) of weight.
- f) Intoxicating liquor: shall mean any liquid either commonly used, or reasonably adapted to use, for beverages purposes containing in excess of three and two-tenths per centum (3.2%) of alcohol by weight. This shall include any type of wine, regardless of alcoholic content.
- g) Legal age: shall mean the age requirements as defined in Part II, Section 7.
- h) Liquor store: shall mean any store, established by the Community or licensed individual or entity, for the sale of alcoholic beverages.
- i) Low point beer: shall mean any liquid either commonly used, or reasonably adapted to use, for beverage purposes, and which is produced wholly or in part from brewing of any

grain or grains, malt substitute, and which contains any alcohol whatsoever, but no more than three and two-tenths per centum (3.2%) of alcohol by weight.

- j) Off-sale: shall mean the sale of any alcoholic beverages for consumption off the premises where sold.
- k) On-sale dealer: shall mean the Prairie Island Indian Community or licensed individual or entity that sells, or keeps for sale any alcoholic beverage authorized under this Ordinance for consumption on the premises where sold.
- l) On-sale: shall mean the sale of any alcoholic beverage for consumption only upon the premises where sold.
- m) Sale: shall mean the transfer of any bagged, bottled, boxed, canned or kegged alcoholic beverage, or the serving of any contents of any bagged, bottled, boxed, canned or kegged alcoholic beverage for a consideration of currency exchange.
- n) Transaction: shall mean any transfer of any bagged, bottled, boxed, canned, or kegged alcoholic beverage, or the transfer of any contents of any bagged, bottled, boxed, canned or kegged alcoholic beverage from any liquor store, on-sale dealer or vendor to any person.
- o) Vendor: shall mean any person employed or under the supervision by and of a liquor store or on-sale dealer who conducts sales or transactions involving alcoholic beverages.
- p) Wine: shall mean any beverage containing alcohol obtained by the fermentation of the natural sugar contents of fruits or other agricultural products, and containing not more than seventeen percent (17%) of alcohol by weight, including sweet wines, fortified with wine spirits, such as port, sherry, muscatel, and angelica.

### **Section 3. General Prohibition.**

It shall be unlawful to manufacture for sale, sell, offer, or keep for sale, possess, transport or conduct any transaction involving any alcoholic beverage except in compliance with the terms, conditions, limitations, and restrictions specified in this Ordinance.

### **Section 4. Community Control of Alcoholic Beverages.**

The Council shall have the sole and exclusive right to authorize the importation of alcoholic beverages for sale or for the purpose of conducting transactions therewith, and no person or organization shall so import any such alcoholic beverage into the Prairie Island Indian Reservation unless authorized by the Council.

### **Section 5. Community Liquor Store.**

The Council may establish and maintain anywhere on the Prairie Island Indian Reservation that the Council may deem advisable, a community liquor store or stores for storage and off-sale of

alcoholic beverages in accordance with the provisions of this Ordinance. The Council may set the prices of alcoholic beverages sold.

**Section 6. Community On-Sale Dealer.**

The Council may establish and maintain anywhere on the Prairie Island Indian Reservation that the Council may deem advisable, a community on-sale dealer or dealers for storage and on-sale of alcoholic beverages in accordance with the provisions of this Ordinance. The Council may set the prices of alcoholic beverages sold.

**Section 7. State of Minnesota Licenses.**

The Council shall notify the State of Minnesota of any Community operated establishment that sells alcoholic beverages or conducts transactions involving alcoholic beverages in compliance with Minnesota law chapter 340A.4055.

**PART II. COMPLIANCE WITH THE LAWS OF THE STATE OF MINNESOTA.**

**Section 1. Liability Insurance.**

For the purpose of complying with 18 U.S.C. § 1161 and the Minnesota Liquor Act, the Council, or any entity licensed by the Council, shall demonstrate proof of financial responsibility to the State of Minnesota by obtaining the necessary liability insurance required by Minnesota law chapter 340A.409.

**Section 2. License Restrictions, General.**

- a) License posting. A retail license to sell alcoholic beverages must be posted in a conspicuous place in the premises for which it is used.
- b) Gambling compliance. Gambling on premises where alcoholic beverages are to be sold must be in compliance under the Indian Gaming Regulatory Act of 1988, 25 U.S.C. § 2701, et. seq. and Chapter 349 and 349A of the Minnesota Statutes.
- c) License limited to space specified. A retail license to sell any alcoholic beverage is only effective for the compact and contiguous space specified in the approved license application.

**Section 3. License Restrictions; Intoxicating Liquor Licenses.**

- a) Investigation of on-sale licenses. The Community Council shall appoint a person to cooperate with any city or county official in the conduct of any preliminary background and/or financial investigation for the purposes of complying with Minn. Stat. 304A.412. However, nothing in this section shall mean and be construed to be a waiver of the Community's sovereign immunity and shall allow any city or county official to conduct

any investigation not specifically authorized by the Community Council as documented by a written resolution.

- b) Off-sale limitation. The Community shall not apply for more than one off-sale intoxicating liquor license.
- c) General compliance. The Community Council shall comply with all prohibitions as stated in Minn. Stat. 340A.412, Subd. 4.
- d) Employment of Minors. No person under 18 years of age may serve or sell intoxicating liquor on the Prairie Island Indian Reservation.

**Section 4. Restrictions on the Number of Intoxicating Liquor Licenses that May be Issued.**

- a) Referendum for additional on-sale licenses. The Community Council may issue on-sale intoxicating liquor licenses over the number permitted under Part III, Section 4 when authorized by the voters of the Community at a general or special election.

The Community Council may direct that either of the following questions be placed on the ballot.

- (1) “Shall the Community Council be allowed to issue ‘on-sale’ licenses for the sale of intoxicating liquor at retail in excess of the number permitted by law?”

Yes: \_\_\_\_\_  
No: \_\_\_\_\_

- (2) “Shall the Community Council be allowed to issue (a number to be determined by the governing body) ‘on-sale’ licenses for the sale of intoxicating liquor at retail in excess of the number now permitted by law?”

**Section 5. Responsibility of Licensee.**

Every licensee is responsible for the conduct in the licensed establishment and any sale of alcoholic beverages by any employee authorized to sell alcoholic beverages in the establishment is the act of the licensee for the purposes of all provisions of this ordinance.

**Section 6. Sales to Obviously Intoxicated Persons.**

No person may sell, give, furnish, or in any way procure for another, alcoholic beverages for the use of an obviously intoxicated person. Nothing herein shall be construed as a waiver of the Community Council’s sovereign immunity from suit for any violation of this section by a licensee or employee of a Community facility.

## **Section 7. Persons Under 21 Years of Age; Restrictions.**

The Council shall enforce the State of Minnesota laws regarding restrictions on those persons under the age of 21 years in any Community establishment operating pursuant to the provisions of this Ordinance.

- a) No Community operated or licensed establishment shall sell, barter, furnish, give or allow to be consumed therein, alcoholic beverages to and by a person under 21 years of age;
- b) Any Community operated or licensed establishment shall require proof of age for purchasing or consuming alcoholic beverages by requiring a valid driver's license or State of Minnesota identification card, or in the case of a foreign national a valid passport to be shown at any time deemed necessary while on the premises of a Community operated or licensed establishment;
- c) Any Community operated or licensed establishment shall prohibit all persons under the age of 21 years to enter the establishment except to: (1) perform work if the person is 18, 19, or 20 years of age; (2) consume meals while accompanied by an adult who is the legal guardian or parent of the person; and (3) attend social functions that are held in a portion of the establishment where alcoholic beverages are not sold;
- d) No Community operated or licensed establishment shall employ any person under the age of 18 years to serve or sell alcoholic beverages.

## **Section 8. Hours and Days of Sale.**

- a) No Community operated or licensed establishment shall sell or furnish alcoholic beverages for on-sale purposes between 1:00 a.m. and 8:00 a.m. on the days of Monday through Saturday, or after 1:00 a.m. on Sundays; or otherwise not in compliance with Minnesota law chapter 340A.504;
- b) No Community operated or licensed establishment shall sell or furnish alcoholic beverages for off-sale purposes: (1) on Sundays; (2) before 8:00 a.m. on Monday through Saturday; (3) after 10:00 p.m. on Monday through Saturday; or (4) otherwise not in compliance with Minnesota law chapter 340A.504.

## **Section 9. Sales of Ethyl and Neutral Spirits Prohibited.**

No person may sell at retail for beverage purposes ethyl alcohol or neutral spirits, or substitutes thereof, possessing the taste, aroma, and characteristics generally attributed to ethyl alcohol or neutral spirits. Nothing in this section prohibits the manufacture or sale of other products obtained by use of ethyl alcohol or neutral spirits as defined in U.S. Treasury Department, Bureau of Internal Revenue, Regulations 125, Article II, Standards of Identity for Distilled Spirits.

**PART III. COMMUNITY LICENSING, SALES AND TRANSACTIONS.**

**Section 1. Power to License and Tax.**

The power to establish licenses and levy taxes under the provisions of this Ordinance is vested exclusively with the Council.

**Section 2. Community Liquor Licenses.**

The Council shall issue by resolution, upon proper application and Council approval, a Community liquor license to any establishment wishing to sell, serve, or furnish alcoholic beverages or conduct transactions involving alcoholic beverages within the boundaries of the Prairie Island Indian Reservation.

**Section 3. Classes of Licenses.**

Classes of licenses under this part shall be as follows:

- a) Class A Off-Sale Liquor store;
- b) Class B On-Sale Dealer.

**Section 4. Community Operated Establishments.**

The Council shall issue by resolution one appropriate license to a Community operated establishment upon determining the site for the establishment, creating an operating infrastructure for the establishment and obtaining the appropriate licensing from the State of Minnesota.

**Section 5. No Licenses Issued.**

The Council shall not issue any licenses to any person or entity other than the Community until this Ordinance is properly amended to authorize the licensing of non-Community persons or entities.

**Section 6. Display of Community License.**

Any establishment licensed pursuant to the provisions of this Ordinance shall display the Community license in a conspicuous place.

**PART IV. DISTRIBUTION OF PROFITS.**

**Section 1. Distribution of Profits.**

All profits from the sale of alcoholic beverages on the Prairie Island Indian Reservation are subject to distribution of the Council in accordance with its usual appropriation procedures for essential governmental and social services.

**PART V. REVISION.**

**Section 1. Severability.**

If any section of any part of this Ordinance, or the application thereof to any party, person, or entity or to any circumstances, shall be held invalid for any reason whatsoever, the remainder of the part or Ordinance shall not be affected thereby, and shall remain in full force and effect as though no part thereof had been declared to be invalid.

**Section 2. Amendment or Repeal of Ordinance.**

This Ordinance may be amended or repealed only by a majority vote of the Council in regular session.

Adopted on October 4, 1992, by Community Council Resolution No. 92-118