

# PRAIRIE ISLAND INDIAN COMMUNITY

## Sales and Use Tax Ordinance

### Section 1. Title

This Ordinance is known as the Prairie Island Indian Community Sales and Use Tax Ordinance.

### Section 2. Reservation of Rights

The Prairie Island Indian Community fully reserves the right to amend, alter, increase, or decrease taxes imposed herein, or repeal the provisions of this Ordinance, and all rights and privileges granted or extended hereunder are subject to such reserved right.

### Section 3. Definitions

Unless otherwise required by the context, the following words and phrases have the following designated meanings:

- (1) “Fair market value” means the fair and reasonable value for which the taxable item could be sold or rented in an open market in the regular course of business.
- (2) “Gross receipts” means the total amount received in money, or otherwise, for all retail sales as measured by the sales price, or the fair market value of a retail sale for which there is no consideration paid and no rental charged.
- (3) “Hotel occupancy” means the temporary use of, or the temporary right to use, any room in a hotel.
- (4) “Person” means any individual, firm, partnership, joint venture, association, corporation, municipal corporation, cooperative, estate, or trust.
- (5) “Retail sale” means any sale or rental for any purpose other than resale, in the regular course of business.
- (6) “Retailer” includes every person engaged in making sales at retail as herein defined.
- (7) “Sale” includes, but is not limited to, each of the following transactions:
  - (a) Any transfer of title or possession, or both of tangible personal property, for a consideration in money or by exchange or barter.
  - (b) The furnishing of any hotel occupancy.

- (c) The furnishing for consideration of lodging and related services by a marina or recreational vehicle park.
- (d) The furnishing, preparing, or serving for a consideration of foods, meals, or drinks.
- (e) The granting of the privilege of admission to places of amusement, recreational areas, athletic events, or athletic facilities.
- (f) The furnishing for consideration of parking services, whether contractual or hourly.
- (g) The furnishing for consideration of laundry or dry-cleaning services not including services provided by coin-operated facilities operated by the customer.

#### **Section 4. Imposition of General Sales Tax**

There is hereby imposed a tax of six and seven-eighths percent (6.875%) upon the gross receipts from all retail sales on the Prairie Island Indian Reservation.

#### **Section 5. Special Surcharge Tax and Community Resort Fee**

- (1) There is hereby imposed a special surcharge tax of six percent (6%) upon the gross receipts from all retail sales of lodging, including a hotel occupancy, a marina slip, or a recreational vehicle park site.
- (2) There is hereby imposed a special surcharge tax of two and one-half percent (2.5%) of the sales price for each retail sale of liquor, wine, and beer to consumers or purchasers.
- (3) In addition to applicable taxes imposed by this Ordinance, a hotel must charge a Community resort fee on every hotel occupancy at the rate of \$10.00 per room per night.
  - (a) This fee is not included in the gross receipts received for a hotel occupancy upon which the taxes imposed by Section 4 and Section 5(1) are imposed.
  - (b) This fee applies to every hotel occupancy, including complimentary accommodations for which there is no consideration paid and no rental charged for such occupancy.
  - (c) All provisions of this Ordinance, including the definition provisions, relating to or applicable to the administration, collection and disposition of the taxes imposed by this Ordinance will apply to this fee so far as such provisions can be made applicable to such fee.

**Section 6. Minimum Tax**

If in computing the tax to be collected as the result of any transaction amounts of less than one-half of one cent, it may be disregarded and amounts of tax of one-half cent or more may be considered an additional cent.

**Section 7. Liability for Sales Tax and Fees**

All taxes and fees imposed by this Ordinance constitute a debt owed by the retailer to the Prairie Island Indian Community and are recoverable at law in the same manner as other debts. Purchases made on behalf of the Prairie Island Indian Community are exempt from tax.

**Section 8. Exemptions from Sales Tax**

The following are specifically exempted from taxes imposed in this Ordinance:

- (1) The gross receipts from sales to the Prairie Island Indian Community.
- (2) The gross receipts from the sale of personal property that is to become real property as a result of incorporation, attachment, or installation following its acquisition.
- (3) The gross receipts from the sale of residential heating fuels, including but not limited to, fuel oil, coal, wood, steam, propane gas, natural gas, and L.P. gas sold to residential customers for residential use.

**Section 9. Occasional Sales**

The gross receipts from isolated or occasional sales not made in the normal course of business of selling that kind of property are exempt.

**Section 10. Enforcement**

The Tribal Tax Commission, consisting of the Tribal Council Treasurer, Tribal Council Assistant Secretary/Treasurer, and Tribal Finance Director, will enforce all provisions of this Ordinance. The Tax Commission may prescribe rules and regulations not inconsistent with the provisions of this Ordinance.

**Section 11. Application for Retailer Permit**

Every retailer or person engaging in business within the Reservation whose receipts are subject to sales tax must file with the Tax Commission an application for a sales tax permit(s). Every application for such a permit must be made upon a form prescribed by the Tax Commission and set forth the name under which the application transacts or intends to transact business, the location of the place(s) of business, and such other information as the Tax Commission may

require. The application must be signed by the owner, if a natural person; in the case of an association or partnership, by a member or partner thereof; or in the case of a corporation, by an executive officer thereof or some person specifically authorized by the corporation to sign the application, to which must be attached the written evidence of his authority. The applicant must have a sales tax permit for each place of business.

**Section 12. Issuance of Retailer Permit**

The Tax Commission may grant and issue to each applicant a non-assignable permit for each place of business on the Reservation. The permit will, at all times, be conspicuously displayed only at the place for which issued. Permits are valid and effective until revoked by the Community.

**Section 13. Revocation**

Whenever the holder of a permit fails to comply with any provisions of this Ordinance or any rules or regulations prescribed by the Tax Commission or whenever the holder of a permit files returns showing no tax due for four consecutive quarters, the Tax Commission, upon giving a ten-day notice of the time and place of hearing and conducting a hearing, may revoke the permit for cause.

**Section 14. Payment of Taxes and Fees**

Every retailer will submit to the Tax Commission, within 15 calendar days after the end of each calendar month, a report on such form as prescribed by the Tax Commission the amount of sales and the gross amount of sales taxes collected during that calendar month. Every retailer must pay the gross sales tax collected during a calendar month to the Tax Commission at the same time as the report for that calendar month is submitted.

**Section 15. Penalties**

Every retailer who fails to collect the taxes imposed by this Ordinance is liable for the full amount of the tax owed plus interest at the statutory rate until paid. Willful failure to collect or pay over the taxes imposed by this Ordinance will make the retailer liable for an individual penalty of 100 percent of the taxes due plus interest of the statutory rates until paid.

**Section 16. Revenue Distribution**

All revenues derived from taxes, penalties, and interest from this Ordinance and received by the Prairie Island Indian Community will be deposited into the Tax Receipts Fund of the Prairie Island Indian Community and may be expended only as the Tribal Council may direct by formal resolution.

**Section 17. Judicial Review**

The Prairie Island Mdewakanton Dakota Community Tribal Court is granted exclusive subject-matter jurisdiction over any cause of action that may arise from the implementation of the provisions of this Ordinance.

**Section 18. Rescission of Prior Law**

This Ordinance rescinds and replaces any and all prior ordinances, resolutions, and agreements relating to the imposition of sales and use taxes.

**Section 19. Severability**

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

**Section 20. Sovereign Immunity**

Nothing in this Ordinance acts to waive the Community's sovereign immunity from suit.

**Section 21. Effective Date**

This Ordinance will be effective at 12:01 a.m. on October 3, 2018.

Ordinance originally adopted by Resolution 96-10-24-99; amended by Resolution Nos. 98-10-14-110, 09-05-27-83, 15-02-18-32, 17-12-20-185, and 18-10-03-158.