



# Prairie Island Indian Community Sales and Use Tax Ordinance<sup>1</sup>

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<sup>1</sup> Note of Adoption and Amendment: The Community Council adopted this Ordinance on October 24, 1996, by Resolution Number 96-10-24-99. The Community Council amended this Ordinance:

- on October 14, 1998, by Resolution Number 98-10-14-110;
- on May 27, 2009, by Resolution Number 09-05-27-83;
- on February 18, 2015, by Resolution Number 15-02-18-32;
- on December 20, 2017, by Resolution Number 17-12-20-185; and
- on October 3, 2018, by Resolution Number 18-10-03-158.

The Notes of Amendment include the substantive, non-technical changes to the Ordinance. The Community Council reformatted this Ordinance on December 11, 2024, by Resolution Number 24-12-11-299, 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.

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**Section 1. Short Title.** This Ordinance shall be known and may be cited as the Prairie Island Indian Community Sales and Use Tax Ordinance.

**Section 2. Statement of Purpose, Findings, and Authority.<sup>2</sup>**

- a. Purpose. [reserved].
- b. Findings. [reserved].
- c. Authority. [reserved].

**Section 3. Definitions.<sup>3</sup>**

- a. “Community” means the Prairie Island Indian Community in the State of Minnesota, a federally recognized Indian Tribe.
- b. “Community Council” means the constitutionally authorized governing body of the Community, also referred to as the “Tribal Council.”
- c. “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.
- d. “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.
- e. “Hotel Occupancy” means the temporary use of, or the temporary right to use, any room in a hotel.
- f. “Person” means any individual, firm, partnership, joint venture, association, corporation, municipal corporation, cooperative, estate, or trust.
- g. “Prairie Island Indian Community Reservation” or “Reservation” means all lands and waters within the exterior boundaries of the Prairie Island Indian 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.
- h. “Retail Sale” means any Sale or rental for any purpose other than resale, in the regular course of business.
- i. “Retailer” includes every Person engaged in making Retail Sales as herein defined.
- j. “Sale” includes, but is not limited to, each of the following transactions:

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<sup>2</sup> Note of Amendment: The Community Council added this Section on December 11, 2024, by Resolution Number 24-12-11-299.

<sup>3</sup> Note of Amendment: The Community Council amended this Section on October 3, 2018, by Resolution Number 18-10-03-158, to add definitions for “Fair Market Value” and “Hotel Occupancy,” and to including the furnishing of any Hotel Occupancy in the definition of “Sale.” The Community Council amended this Section again on December 11, 2024, by Resolution Number 24-12-11-299, to add definitions for “Community,” “Community Council,” “Prairie Island Indian Community Reservation” or “Reservation,” and “Tribal Court,” consistent with Community law.

1. Any transfer of title or possession, or both, of tangible personal property, for a consideration in money or by exchange or barter.
  2. The furnishing of any Hotel Occupancy.
  3. The furnishing for consideration of lodging and related services by a marina or recreational vehicle park.
  4. The furnishing, preparing, or serving for a consideration of foods, meals, or drinks.
  5. The granting of the privilege of admission to places of amusement, recreational areas, athletic events, or athletic facilities.
  6. The furnishing for consideration of parking services, whether contractual or hourly.
  7. The furnishing for consideration of laundry or dry-cleaning services not including services provided by coin-operated facilities operated by the customer.
- k. “Tribal Court” means the Prairie Island Mdewakanton Dakota Community Tribal Court.

**Section 4. Applicability.** [reserved].<sup>4</sup>

**Section 5. Imposition of General Sales Tax.**<sup>5</sup> There is hereby imposed a tax of six and seven-eighths percent (6.875%) upon the Gross Receipts from all Retail Sales on the Reservation.

**Section 6. Special Surcharge Tax and Community Resort Fee.**<sup>6</sup>

- a. 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.<sup>7</sup>
- b. 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.

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<sup>4</sup> Note of Amendment: The Community Council added this Section on December 11, 2024, by Resolution Number 24-12-11-299.

<sup>5</sup> Note of Amendment: The Community Council amended this Section on May 27, 2009, by Resolution Number 09-05-27-83, to increase the tax rate by .375% to 6.875%.

<sup>6</sup> Note of Amendment: The Community Council amended this Section on February 18, 2005, by Resolution Number 15-02-18-32, to increase the lodging special surcharge tax by 1.0% to 4.0%. The Community Council amended this Section again on December 20, 2017, by Resolution Number 17-12-20-185, to increase the lodging special surcharge tax again by 2.0% to 6.0% and further clarify to what “lodging” applies; and to add a liquor consumption special surcharge tax. The Community Council amended this Section again on October 3, 2018, by Resolution Number 18-10-03-158, to add subsection (c) and rename the Section to include the Community resort fee.

<sup>7</sup> Note of Amendment: The Community Council amended this subsection on October 3, 2018, by Resolution Number 18-10-03-158, to specify that the tax applies to the Gross Receipts for all Retail Sales as provided therein.

- c. 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.
  - 1. 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(a) are imposed.
  - 2. This fee applies to every Hotel Occupancy, including complimentary accommodations for which there is no consideration paid and no rental charged for such occupancy.
  - 3. 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 7. 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 8. Liability for Sales Tax and Fees.**<sup>8</sup> All taxes and fees imposed by this Ordinance constitute a debt owed by the Retailer to the Community and are recoverable at law in the same manner as other debts. Purchases made on behalf of the Community are exempt from tax.

**Section 9. Exemptions from Sales Tax.**<sup>9</sup> The following are specifically exempted from taxes imposed in this Ordinance:

- a. The Gross Receipts from Sales to the Community.
- b. 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.
- c. 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 10. 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 11. Enforcement.** The Community Tax Commission, consisting of the Community Council Treasurer, Community Council Assistant Secretary/Treasurer, and Community 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.

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<sup>8</sup> Note of Amendment: The Community amended this Section on October 3, 2018, by Resolution Number 18-10-03-158, to clarify that the taxes and fees constituted a debt owed by the Retailer.

<sup>9</sup> Note of Amendment: The Community Council amended this Section on October 3, 2018, by Resolution Number 18-10-03-158, to exempt Gross Receipts from Sales to the Community.

**Section 12. 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 their authority. The applicant must have a sales tax permit for each place of business.

**Section 13. 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 14. 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 15. Payment of Taxes and Fees.**<sup>10</sup> 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 16. 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 one hundred (100%) percent of the taxes due plus interest of the statutory rates until paid.

**Section 17. Revenue Distribution.**<sup>11</sup> All revenues derived from taxes, penalties, and interest from this Ordinance and received by the Community will be deposited into the Tax Receipts Fund of the Community and may be expended only as the Community Council may direct by formal resolution.

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<sup>10</sup> Note of Amendment: The Community Council amended this Section on December 20, 2017, by Resolution Number 17-12-20-185, to direct payment to the Tax Commission. The Community Council renamed this Section on October 3, 2018, by Resolution Number 18-10-03-158, from "Payment of Taxes" to "Payment of Taxes and Fees."

<sup>11</sup> Note of Amendment: The Community Council repealed and replaced this Section on October 14, 1998 by Resolution Number 98-10-14-110, to redirect tax receipts from a Land Development Fund to a Tax Receipts Fund.

**Section 18. Judicial Review.** The 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 19. Records.**<sup>12</sup> [reserved].

**Section 20. Miscellaneous Provisions.**<sup>13</sup>

- a. Sovereign Immunity Preserved. Nothing in this Ordinance waives the Community's sovereign immunity from suit.
- b. Reservation of Rights. The 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.
- c. 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 to other Persons or circumstances, is not affected.
- d. Repeal 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.

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<sup>12</sup> Note of Amendment: The Community Council added this Section on December 11, 2024, by Resolution Number 24-12-11-299.

<sup>13</sup> Note of Amendment: The Community Council added this Section heading and consolidated the subsections on December 11, 2024, by Resolution Number 24-12-11-299.