Prairie Island Indian Community
Building Code Ordinance[1]

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[1] Note of Adoption and Amendment: The Community Council adopted this Ordinance on July 9, 1992, by Resolution Number 92-82. The Community Council amended this Ordinance on February 12, 1997, by Resolution Number 97-2-12-20, to incorporate the 1994 Uniform Building Code. The Community Council amended this Ordinance on July 26, 2023, by Resolution Number 23-07-26-140, to apply parts of the International Building Codes in place of the 1991 and 1994 Uniform Building Codes, finding that continued application of the outdated Uniform Building Codes to future construction is an exigent circumstance that constitutes an imminent threat to the public health, safety, or interests of the Community or its members. The Community Council also reformatted this Ordinance on July 26, 2023, by Resolution Number 23-07-26-140, 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. The 2023 amendment includes notes of its non-technical changes to the Ordinance.

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Section 1. Short Title. This Ordinance shall be known and may be cited as the Prairie Island Indian Community Building Code Ordinance.

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

a. Purpose. The Community Council declares the purpose of this Ordinance is to protect, preserve, and promote the health and welfare of the members of the Community through the regulation of public and private building projects, and to promote the general welfare of the Community by legislation applicable to all buildings which:

   i. Establishes standards for basic buildings and materials used in the construction of structures within the boundaries of the Reservation or on lands hereinafter acquired which are held in trust for the Community by the United States government;

   ii. Establishes specifications for buildings and materials used in the construction of structures within the boundaries of the Reservation or on lands hereinafter acquired which are held in trust for the Community by the United States;

   iii. Determines the responsibilities of owners and builders of structures on the Reservation or lands hereinafter acquired which are held in trust for the Community by the United States government; and

   iv. Provide for the administration and enforcement thereof.

b. Findings. [reserved]

c. Authority. [reserved]

Section 3. Definitions.[2]

a. "Approved" means designed, constructed and installed in accordance with the provisions of this Ordinance and any regulations or provisions promulgated in pursuance thereof or hereinafter adopted by the Community Council.

b. "Building" means the act of erecting, constructing, modifying, enlarging, repairing, moving, removing, demolishing, converting, equipping, using, or maintaining a structure, and also means the structure resulting from the act of building.

c. "Community" means the Prairie Island Indian Community in the State of Minnesota, a federally recognized Indian Tribe.

d. "Community Council" means the constitutionally recognized governing body of the Community, also referred to as the "Tribal Council."

e. "Person" means any natural person, corporation, association, partnership or government entity.

f. "Prairie Island Indian Community Reservation" or "Reservation" means all territory subject to the Community's jurisdiction.

[2] Note of Amendment: The Community Council amended this Section on July 26, 2023, by Resolution Number 23-07-26-140, to delete the definition of "Improvements," and add definitions for "Community," "Community Council," and "Prairie Island Indian Community Reservation."

Section 4. Applicability.[3] This Ordinance shall be applicable to structures erected, constructed, modified, enlarged, altered, repaired, moved, demolished, converted, occupied, equipped, used and maintained within the boundaries of the Prairie Island Indian Community Reservation or any land hereinafter acquired which is held in trust for the Community by the United States government.

Section 5. Specifications.[4] The specifications applicable to structures erected, constructed, modified, enlarged, altered, repaired, moved, demolished, converted, occupied, equipped, used, and maintained shall be those defined in the International Building Code 2021, with the exception of Chapter 1, Part 2; International Residential Code 2021, including Appendix E, but with the exception of Chapter 1, Part 2; International Fire Code 2021, with the exception of Chapter 1, Part 2; International Plumbing code 2021, with the exception of Chapter 1, Part 2; and NFPA 70, National Electrical Code 2020 (hereinafter "International Building Codes").

Section 6. Standards.[5] The standards applicable to structures erected, constructed, modified, enlarged, altered, repaired, moved, demolished, converted, occupied, equipped, used and maintained shall be those defined in the International Building Code 2021, with the exception of Chapter 1, Part 2; International Residential Code 2021, including Appendix E, but with the exception of Chapter 1, Part 2; International Fire Code 2021, with the exception of Chapter 1, Part 2; International Plumbing code 2021, with the exception of Chapter 1, Part 2; and NFPA 70, National Electrical Code 2020.

Section 7. Permits.[6] The construction, erection, enlargement, alteration, repair, moving, removal, demolition, conversion, occupancy, equipment, use, height, area, and maintenance of all buildings or structures on lands within the boundaries of the Reservation or on lands hereinafter acquired which are held in trust for the Community by the United States shall require the issuance of a permit from the Community Council. The permit shall conform to the permit requirements of the International Building Codes and shall:

a. State the consent of the property owner or owners and the person or persons responsible for the proposed project to the periodic inspection of the project; and

b. Serve as prima facie evidence of the jurisdiction of the Community Council to hear all complaints raised in association with the proposed project, all requests for a variance from compliance with this Ordinance, together with all responses to a Notice of Violation as defined herein.

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[3] Note of Amendment: The Community Council renamed this Section on July 26, 2023, by Resolution Number 23-07-26-140. The Community Council clarifies its interpretation that this Ordinance is intended to apply to the Community and Community member building projects.

[4] Note of Amendment: The Community Council amended this Section on July 26, 2023, by Resolution Number 23-07-26-140, to refer to currently applicable building code standards.

[5] Note of Amendment: The Community Council amended this Section on July 26, 2023, by Resolution Number 23-07-26-140, to refer to currently applicable building code standards.

[6] Note of Amendment: The Community Council amended this Section on July 26, 2023, by Resolution Number 23-07-26-140, to refer to currently applicable building code standards.

Section 8. Fees.

a. All persons proposing projects subject to this Ordinance shall pay, at the time the permit is issued, a fee assessed for purposes of deferring the inspection costs, administrative costs, and enforcement costs associated with the proposed project; and

b. The fees assessed for the proposed project shall be those deemed reasonable by the Community Council. Such fees may also take into consideration the nature, complexity, and duration of the proposed project, together with the oversight required, and the number of expected visits that the Community Council shall from time-to-time deem appropriate or necessary for the purposes of this Ordinance.

Section 9. Inspection. All activities regulated by this Ordinance shall be subject to periodic inspection by the Tribal Inspector, acting as the designated representative of the Community Council, who shall determine if such projects conform to the requirements of this Ordinance; and

a. It shall be unlawful for any person, owner, occupant, or lessee to deny the Tribal Inspector free access to any property for purposes of inspecting that property, whether:

   i. to determine if a regulated activity is being conducted without the required permit; or

   ii. to determine compliance with the standards and specifications set forth in a permit.

b. Notice of inspection shall not be required.

Section 10. Violations. Whenever the Tribal Inspector determines there has been a violation of any provision of this Ordinance or any rule or regulation adopted pursuant to this Ordinance, the Tribal Inspector shall issue a Notice of Violations to the person or persons responsible for this project. Such notice shall:

a. be in writing;

b. particularize the violations alleged to exist or to have been committed;

c. provide a reasonable time within which to remedy the violations;

d. be served in person upon the person or persons named in the permit, or by registered, certified mail to the person or persons named in the permit at the addresses indicated in the building permit; and

e. conform in all other respects to the requirements set forth in the International Building Codes, as applicable.[7]

[7] Note of Amendment: The Community Council amended this subsection on July 26, 2023, by Resolution Number 23-07-26-140, to refer to currently applicable building code standards.

Section 11. Penalties for Violations. The penalties for violations shall be those deemed reasonable by the Community Council.

Section 12. Right to Hearing Regarding Violation. All persons alleged to have committed a violation of the provisions of this Ordinance or the rules and regulations adopted in pursuance of this Ordinance, shall be entitled to a hearing before the Community Council regarding the alleged violations and shall:

a. be permitted to present oral testimony on their own behalf regarding the alleged violation;

b. be permitted to present witnesses who may give oral testimony regarding the alleged violations; and

c. be permitted to show good cause why the alleged violations would come within the recognized exceptions to the requirements of this article as is permitted in Section 13, Variances.

Section 13. Variances. The Community Council may authorize, upon appeal in specific cases or in response to testimony at a Notice of Violations hearing, a variance from the requirements of this Ordinance or the rules and regulations promulgated pursuant thereto, subject to the terms and conditions fixed by the Community Council. Such a variance shall only be granted due to exceptional and unusual circumstances where the Community Council determines that compliance is not necessary to protect the health, welfare, and safety of the Community, and the enforcement would work a substantial and unnecessary hardship. The burden of showing such unusual and exceptional circumstances where literal enforcement would work a substantial and unnecessary hardship shall rest in all cases with the applicant, or in the case of a Notice of Violation hearing, with the person or persons responsible for the violations. The applicant, or the person charged with the violation, shall be required to show by clear and convincing evidence that:

a. the variance will not substantially reduce the safety of the proposed project, and will not endanger the health or welfare of the Community;

b. the variance is in harmony with the spirit and purposes of this Ordinance; and

c. the variance will protect, preserve, and promote the health, welfare, and safety of the Community to the same extent and in the same manner as would literal enforcement or this Ordinance.

Section 14. Miscellaneous.[8]

a. Supremacy. This Ordinance and all other rules, regulations, and provisions adopted in pursuance thereof shall supersede any other ordinances, parts of ordinances, or provisions which conflict with it, and any such conflicting ordinances, parts of ordinances, rules or regulations are hereby repealed.

b. Severability. If any provision of this Ordinance or of any rule, regulations, or provision adopted or promulgated under this Ordinance, or its application to any person is held to

[8] Note of Amendment: The Community Council added this Section on July 26, 2023, by Resolution Number 23-07-26-140.

be invalid, unconstitutional, void or inoperative, such holding shall not affect other provisions or applications of the Ordinance or the rules and regulations adopted and promulgated thereunder. The Community Council hereby declares that in this regard the provisions of this Ordinance and the rules and regulations adopted in pursuance thereof are severable, and that the Community Council would have in enacted the remaining provisions hereof or authorized the adoption and promulgation of the remaining provisions of the rules and regulations notwithstanding such a holding.

c. Saving Clause. The repeal of any section of this Ordinance or any rule, regulation, or provision adopted or promulgated thereunder shall not affect, abridge, or impair or deny any right, action, or cause of action accruing or arising under that provision, and such right, action, or cause of action may be prosecuted to a final determination under provisions so repealed. No fine or other penalty shall be abrogated by any amendment to this Ordinance.

d. Publication. The Community Council Secretary is hereby directed and ordered to cause this Ordinance to be published and to provide the Community with notice of the adoption of this Ordinance according to the provisions of the Constitution and Bylaws of the Community.

e. Effective Date. This Ordinance shall become effective immediately upon passage or the Community Council Resolution adopting this Ordinance, together with the publication of the Ordinance.