Prairie Island Indian Community
Foster Care Licensing Ordinance[1]

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[1] Note of Adoption: The Community Council adopted this Ordinance on December 17, 2025, by Resolution Number 25-12-7-277.

Section 1. Short Title. This Ordinance shall be known as the Prairie Island Indian Community Foster Care Licensing Ordinance.

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

a. Purpose. The purpose of this Ordinance is to protect Children by stabilizing, preserving, and strengthening families and assuring the safety and welfare of Children when they are in a Provider's care.

b. Findings. The Community Council finds that adoption of this Ordinance advances and protects the interests of the Community and Children and families involved in the child protection system by creating a framework for licensing Foster Care Providers for the benefit and protection of Children placed in a Provider's care.

c. Authority. The Community Council has the inherent, pre-constitutional authority to regulate the Community's internal and social relations and internal matters; and the constitutional authority to safeguard and promote the peace, safety, morals, and general welfare of the Community under Article V, § 1(i) of the Constitution and By-Laws of the Prairie Island Indian Community in the State of Minnesota.

Section 3. Definitions.

a. "Child(ren)" means any person under the age of 18.

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

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

d. "Community Member" or "Member" means an enrolled member of the Prairie Island Indian Community.

e. "Emergency Shelter Home" means a Foster Family Home designated primarily for time-limited emergency placements, usually lasting no longer than 30 days.

f. "Extended Family" means relatives through blood and marriage, and those considered extended family under Community custom and tradition, as that term is defined in the Prairie Island Indian Community Child Welfare Ordinance, Section 3 (Definitions), as that section may be amended from time to time.

g. "Family Services" means the Family Services Department of the Prairie Island Indian Community.

h. "Foster Care License" or "License" means the document issued by Family Services authorizing the applicant to provide foster care.

i. "Foster Care Provider" or "Provider" means a person who holds a Foster Care License and gives care to foster Children in a licensed Foster Family Home

j. "Foster Family Home" means a family home licensed by the Community to provide temporary care for Children who are related or unrelated to the family and who are cared for 24 hours a day.

k. "Indian Family" means a family where at least one parent is a member of a federally recognized Indian Tribe.

l. "Kinship Placement" means any person unrelated to the Child by blood or marriage but who has significant emotional and psychological ties with the Child as determined by the Child's family and according to the customs of the Community.

m. "Tribal Court" means the Prairie Island Mdewakanton Dakota Community Tribal Court.

n. "Variance" means written permission from Family Services for a Foster Care Provider to depart for specified amount of time from a standard specified in a foster care licensing rule.

Section 4. Applicability. This Ordinance applies to any Foster Care Provider and Foster Family Home providing temporary care to Children as provided in the Child Welfare Ordinance, whether by consent or court order.

Section 5. Role of Family Services.

a. Delegation to Family Services. The Community Council delegates to Family Services the following functions related to licensure of Foster Family Homes:

1. Establish foster care licensing rules to be published in a handbook;
2. Accept and process License applications;
3. Conduct inspections, studies, and evaluations of Foster Family Homes;
4. Recommend approval or denial of License applications;
5. Monitor compliance with Child foster care licensing rules;
6. Investigate allegations of License violations;
7. Issue correction notices; and
8. Establish a grievance mechanism for resolving differences between Family Services and the Foster Care Provider.

b. Duties of Family Services. Family Services shall:

1. Issue Foster Care Licenses to Foster Care Providers;
2. Coordinate with placement workers to ensure that Foster Care Providers are visited by a placement worker at least monthly;
3. Conduct an annual relicensing evaluation and prepare a report of the evaluation;
4. Provide the Foster Care Provider with a copy of written grievance procedures;
5. Ensure that training is available to enable the Foster Care Provider to meet the training requirements in rules governing foster care; and
6. Maintain the confidentiality of the Child and Foster Family Homes.

Section 6. Foster Care Licensing.

a. Licensing Requirement.

1. A Foster Care Provider must be licensed by the Community to provide care, maintenance, supervision, and protection of Child(ren), as a substitute for regular parental care, without transfer of legal custody or placement for adoption, with or without compensation, on a regular full-time basis in a family home.
2. Any person who provides care as contemplated in subsection (a)(1) above, without a License will be considered unlicensed and subject to civil liability under Community law.
3. All Licenses are valid for one year from the date of issuance unless revoked by the Community and may be renewed annually.
4. A License is not transferable to another person or site.
5. All License holders must be at least 21 years of age.
6. All License holders must have achieved at least one year of sobriety.
7. No provision of this Ordinance limits the authority of the Tribal Court to order placement of the Child on a temporary basis to an unlicensed home if the Tribal Court deems such placement to be in the best interests of the Child.
8. A License holder must meet all licensing requirements established by laws and rules.

b. License Application.

1. To be licensed, the prospective applicant must apply to Family Services. Family Services will provide a License application form to every prospective applicant who requests it.
2. Family Services must provide the following to all prospective applicants in writing:

   A. A summary of licensing requirements;

   B. A description of the agency's licensing home study process;

   C. The agency's timelines for processing License applications; and

   D. The written grievance procedures.

3. An application is completed when the licensing study in Section 6(c)(1) (Foster Care Licensing; Licensing and Background Studies; Licensing Study) is completed and received by Family Services.

c. Licensing and Background Studies.

1. Licensing Study. Family Services must conduct a licensing study on the applicant that includes:

   A. A background study required by Section 6(c)(2) (Foster Care Licensing; Licensing and Background Studies; Background Study); and

   B. A written record of a home study that may include:

      i. On-site inspection of the residence;

      ii. Home visits necessary to fully evaluate the applicant's qualifications for licensure;

      iii. Three letters of reference;

      iv. Where Family Services has knowledge that the applicant was previously licensed, a reference from each previous licensing agency;

      v. In-person interviews with all family members and adults living in household; and

      vi. Social history information about the past and present life experiences of the applicant and all adults living in the household which may include, but is not limited to, family background, education, relations, and social interactions.

      vii. Family Services must include justification for any part of paragraph (c)(1)(B)(i) – (vi) that is not included in the written record of the home study.

2. Background Study.

   A. The background study must be conducted on the following individuals:

      i. The applicant; and

      ii. All individuals over the age of 13 living in the household.

   B. The background study must include a search of the following records:

      i. Conviction records of the Minnesota Bureau of Criminal Apprehension;

      ii. County agency records of substantiated abuse or neglect or maltreatment of minors;

      iii. Juvenile court records of delinquency proceedings held within five years preceding the application or five years preceding the 18th birthday of anyone over the age of 13 living in the household, whichever is longer, to the extent available and accessible to Family Services; and

iv. Any other information, including arrest and investigation records maintained by the Minnesota Bureau of Criminal Apprehension, county attorneys, county sheriffs, courts, county agencies, local police, Tribal courts, Tribal police, and the national criminal repository and criminal records of other states, if there is reasonable cause to believe the information is pertinent to disqualification of the individual.

C. When a background study indicates a subject is disqualified, Family Services must:

i. Notify the applicant in writing that:

01. The study indicates an applicant is disqualified; and

02. The applicant has the right to request reconsideration from Family Services as provided in Section 9(a) (Petition to Reconsider).

ii. Make a recommendation to the Community Council if Family Services recommends that the disqualification be set aside.

d. Variance Requests.

1. Specific rules may be waived with the written approval of Family Services according to the procedure established for variance, provided that the health and safety of the Child(ren) is assured and variance is not otherwise prohibited by law, including but not limited to as found in subsection (f) of this Section (Denial of Licensure).

2. A request for a variance must be submitted in writing by the applicant or License holder and include:

A. The part(s) of the rule for which a variance is sought;

B. The reasons why a variance from the specified rule is sought;

C. The period of time for which a variance is requested; and

D. Alternative equivalent measures the applicant or License holder will take to ensure the health and safety of persons served by Family Services.

3. Family Services must send a written decision to grant or deny the variance request to the applicant or License holder. The granting of a variance does not constitute a precedent for any other Foster Family Home. No variance may be valid for more than one year.

e. Issuance of License.

1. Family Services must recommend that the Community issue a license when Family Services determines that the applicant is in full compliance with this Ordinance and the rules governing licensure and is qualified for licensure.

2. Family Services may recommend that the Community issue a License and grant a variance.

3. Family Services may recommend that the Community deny a license application if Family Services determines that the applicant is not in full compliance with this Ordinance or the rules governing licensure. Family Services must maintain records to support its recommendation under this paragraph including any of the following that apply:

   A. Documentation of deficiencies in the home that endanger the health or safety of persons;

   B. Documentation of any disqualification that has not been set aside;

   C. Reports of Family Services' investigations and on its observations;

   D. Reports from law enforcement agencies;

   E. Reports from county child protection services;

   F. Complaints that relate to Family Services; and

   G. Any other evidence that the applicant is not in compliance with applicable laws or rules governing Foster Family Homes.

f. Denial of License.

   1. A Foster Family Home will not be issued a License if the applicant or any person residing in the applicant's home has been convicted of a felony for:

      A. Child abuse or neglect, for spousal abuse, for a crime against children (including child pornography), or for a crime involving violence, including rape, sexual assault, or homicide, but not including other physical assault or battery, regardless of when the offense was committed; and

      B. Physical assault, battery, or a drug-related offense, if the offense was committed within 5 years of the application for License.

   2. A person convicted of a felony for offenses other than as enumerated in paragraphs 1(A) and (B) above may be granted a License only after 5 years following completion of their sentence. A person ineligible for licensure under this paragraph may request a variance, as found in subsection (d) (Variance Requests).

g. License Renewal. Before the expiration date of a License, Family Services must:

   1. At least 30 days before the License expiration date, provide notice of the License expiration date to the License holder;

   2. Conduct a licensing renewal study that includes significant changes, if any, from the previous licensing study; and

   3. Make a licensing recommendation.

h. Termination of License.

1. A License for foster care may be terminated by Family Services for failure to abide by the terms of the License, this Ordinance, and the foster care policies of Family Services, notice of which must be provided by Family Services to the License holder.

2. A License for foster care may be terminated by the License holder, notice of which must be given by the License holder to Family Services at least 24-hours in advance to facilitate the safe placement of the Child(ren) in the care of the License holder.

3. Family Services does not have to give notice of termination of License and may immediately remove a Child from a Foster Family Home if any person's health or safety is imminently endangered by the placement, consistent with the Prairie Island Indian Community Child Welfare Ordinance.

Section 7. Administration of Foster Care.

a. Foster Care Policy Development.

1. Family Services may develop and implement foster care policies that govern the foster care process, consistent with the Community's process for approval of policies.

2. Family Services must solicit input from the Community prior to submitting the policies for approval and incorporate and implement such recommendations to the extent the recommendations are not inconsistent with this Ordinance. Solicitation may include notice and comment to Community Members, Community meetings, input from a committee convened for this purpose, or other means as determined by Family Services and the Community.

b. Training for Foster Care Providers.

1. Every applicant for a Foster Family Home License must review the Foster Parent Handbook and complete any additional recommended training before and/or while the Child in placement; and

2. Every Foster Family Home must participate in a minimum of twelve (12) hours of training annually related to foster care as required by Family Services. The hours may be shared among the adult Providers in the Family Foster Home.

c. Child's or Foster Parents' Absence from Foster Home. A Provider must notify Family Services any time the foster family and/or Child are going to be away from the licensed Foster Family Home within the state for a period exceeding three nights or, if the child leaves the state, for any period of time, and receive from Family Services a written Court order authorizing travel. However, Family Services may provide specifically defined blanket permission for departures from the state where a family regularly departs the state for an identified purpose.

d. Lifestyle Changes. If a licensed Foster Family Home has experienced a significant lifestyle change, the Provider must notify Family Services within 30 days. Family Services must reevaluate the Foster Family Home to determine the impacts, if any, that may occur to the Child. Significant lifestyle changes include, but are not limited to:

1. Additional family members in household;
2. Death of family member;
3. Birth of family member;
4. Marriage or remarriage;
5. Divorce;
6. Loss of, or decrease in household income, including loss of employment;
7. Loss of sobriety; and
8. Domestic abuse, including, but not limited to, foster parent/foster Child conflict.

f. Placement Preference.

1. Placement preferences for foster care placement of a Child in a placement licensed and/or approved by the Community must be as required by Section 13(d) (Order of Preferences) of the Prairie Island Indian Community Child Welfare Ordinance.
2. If placement with a member of the Child's Extended Family as found in the Child Welfare Ordinance is not available, a Kinship Placement may be considered.
3. These placement preferences must be applied by the Court in all proceedings pursuant to this Ordinance and no deviation may be made without a finding of good cause.
4. In the event of a conflict between this Ordinance and the Child Welfare Ordinance, the Child Welfare Ordinance controls.

g. Protecting the Child's Heritage. Family Services must provide for the preservation of the Child's heritage, including the Child's cultural connection to the Dakota people and Prairie Island Indian Community, through:

1. Placing the Child, if possible and indicated, in a Foster Family Home of similar background.
2. Educating the Provider on the importance of the heritage to the Child.
3. Educating the Provider on the customs and values of the Child's heritage.
4. Assisting the Providers to provide a home which is accepting and supportive of the Child's heritage.

Section 8. Violations.

a. Investigations of Foster Family Homes.

1. Family Services must immediately investigate a report of abuse or neglect of a

person served by a Foster Family Home.

2. Family Services must compile sufficient information about every complaint to:

   A. Determine whether a licensing violation occurred, did not occur, or no determination can be made;

   B. If a violation occurred, issue a correction notice or recommend a negative licensing action; and

   C. Maintain a record of each complaint in the License holder's file.

b. Correction Notice.

   1. A correction notice may be issued upon the discovery of any violation of this Ordinance or rules governing licensure when:

      A. The violation does not imminently endanger the health, safety, or rights of persons served by Family Services;

      B. The violation is not subject to subsection (c) of this Section (Recommending Negative Licensing Actions);

      C. The violation is not serious or chronic; and

      D. The violation will be corrected within a reasonable time.

   2. A correction notice must include a specific time for correcting the violation.

   3. The License holders must provide evidence of compliance with a correction notice for their License to be reinstated.

c. Recommending Negative Licensing Actions.

   1. Failure, inability, or refusal to comply with any part of this Ordinance and the rules governing licensure, is cause for denial, non-renewal, or revocation of a License.

   2. When recommending a negative licensing action, Family Services must maintain records of the following information:

      A. The citation to any rule(s) that have been violated;

      B. The nature and severity of each violation;

      C. Whether the violation is recurring or nonrecurring;

      D. The effect of the violation on the Child;

      E. Any relevant information about the qualifications of the applicant or License holder or persons living in household; and

      F. Any aggravating or mitigating factors related to the violation.

d. Emergency Removal and Placement.

1. Emergency Removal. In circumstances which affect the health, welfare, and safety of a Child, Family Services may remove any Child from a Foster Family Home to a place of safety pending an investigation.

2. Emergency Placement. In the case of an emergency removal of a Child into emergency protective care, a Child may be placed in a home licensed as an Emergency Shelter Home, or a home that is eligible for licensure.

Section 9. Petition to Reconsider; Appeal.

a. Petition to Reconsider. An applicant who has been denied a License or a License holder whose License has been revoked or not renewed may file a petition to reconsider with the Manager of Family Services, or their designee. The petition must include any evidence that rebuts the findings of Family Services. The Manager, or their designee, must provide a written decision to grant or deny the petition to reconsider within 30 calendar days of receipt of the petition. If the petition to reconsider is granted, a License will only be issued after reconsideration upon a showing by clear and convincing evidence that a finding is incorrect.

b. Appeal. The Tribal Court has jurisdiction to hear appeals of the final decisions of Family Services to deny a petition to reconsider. The Tribal Court may order Family Services to reconsider an appeal petition when it determines that the decision of Family Services to deny the petition for reconsideration was arbitrary and capricious.

Section 10. Records. Family Services must make and preserve Foster Care Licensing records consistent with this Ordinance, its record retention policies, and its obligations under Community and other applicable law.

Section 11. Miscellaneous Provisions.

a. Release of Liability. The Community and its governmental agencies are not liable for any damages resulting from any placement made in accordance with the provisions of this Ordinance.

b. Use of Language From Other Laws. Inclusion of language, definitions, procedure, or other statutory or administrative provisions of other Tribal jurisdictions, the State of Minnesota, or other state or federal entities in this Ordinance is not an adoption of that law by the Community and may not be deemed an action of the Community deferring to state or federal jurisdiction where such state or federal jurisdiction is concurrent or does not otherwise exist.

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 of the provision to other persons or circumstances is not affected.

d. No Waiver of Sovereign Immunity. Nothing in this Ordinance may be interpreted as a waiver of the Prairie Island Indian Community's sovereign immunity from suit including any of its governmental officers and/or agents.