



SQUAXIN ISLAND TRIBE

RESOLUTION NO. 02- 61
of the
SQUAXIN ISLAND TRIBAL COUNCIL

WHEREAS, the Squaxin Island Tribal Council is the Governing Body of the Squaxin Island Tribe, its members, its lands, its enterprises and its agencies by the authority of the Constitution and Bylaws of the Squaxin Island Tribe, as approved and adopted by the General Body and the Secretary of the Interior on July 8, 1965; **and**

WHEREAS, under the Constitution, Bylaws and inherent sovereignty of the Tribe, the Squaxin Island Tribal Council is charged with the duty of protecting the health, security, education and general welfare of the tribal members, and with protecting and managing the lands and treaty resources and rights of the Tribe; **and**

WHEREAS, the Squaxin Island Tribal Council has been entrusted with the creation of ordinances and resolutions in order to fulfill their duty of protecting the health, security, education, and general welfare of tribal members, and of protecting and managing the lands and treaty resources of the Tribe; **and**

WHEREAS, the Squaxin Island Tribal Council in a regularly scheduled meeting on April 23, 2002, did approve the attached revised Fireworks Ordinance; and

WHEREAS, a resolution was not prepared for signature at the time of approval; and

WHEREAS, the Squaxin Island Tribal Council desires to ratify the ordinance by resolution.

NOW THEREFORE BE IT RESOLVED that the attached Fireworks Ordinance is hereby approved and effective as of April 23, 2002.

CERTIFICATION

The Squaxin Island Tribal Council does hereby certify that the foregoing Resolution was adopted at the regular meeting of the Squaxin Island Tribal Council, held on this 23rd day of April, 2002, at which time a quorum was present and was passed by a vote of 4 for and 0 against with 0 abstentions.


Dave Lopeman, Chairman


Andy Whitener, Vice Chairman

Attested by:


Pete Kruger, Sr., Secretary

Squaxin Island Fireworks and Safety Ordinance

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6.04.010 Title

This chapter shall be known as the Squaxin Island fireworks sales and safety ordinance and is established in order to protect the health, welfare, and safety of the Squaxin Island Tribe by controlling the sale and possession of fireworks on the Reservation.

6.04.020 Authority and Declaration of Purpose

A. Authority: This Squaxin Island Fireworks Sales and Safety Ordinance is enacted pursuant to the inherent sovereign authority of the Squaxin Island Tribe in accordance with the Medicine Creek Treaty, the Constitution of the Squaxin Island Tribe, and applicable federal law. Pursuant to the Tribal Constitution, the Squaxin Island Tribal Council has the authority to enact laws and ordinances to license and regulate the conduct of business activities, and to impose taxes on all persons and property on the Reservation.

B. Purpose: The Squaxin Island Tribal Council, as the governing body of the Squaxin Island Tribe, recognizes the need to enhance and strengthen the development of the Reservation, supporting community values and goals for achieving complete self-determination and self-governance as a separate sovereign nation. As a guide to interpretation and application, the purposes of the Ordinance are as follows:

1. To promote the sale of legal and safe fireworks on the Reservation;
2. To prohibit the possession or sale of illegal and unsafe fireworks on the Reservation;
3. To promote the safety and welfare of the Squaxin Island Tribal community and its members by regulating the conduct of fireworks sales on the Reservation;

4. To generate revenue for operation of the Squaxin Island Tribal government, including the administration and enforcement for this ordinance, and;
5. To assert, to the exclusion of state and local regulatory authorities, the Tribe's authority over the conduct of trade in, and the use of and disposition of, fireworks on the Reservation.

6.04.030 Definitions

Where a term is not defined in this Ordinance, it shall be given its ordinary meaning.

Terms used in this Ordinance, and in regulations adopted under it, shall have the following meanings, except where otherwise defined or where the context clearly indicates otherwise:

“Commercial sale” means any transfer, exchange or barter, in any manner or by any means whatsoever, for a consideration or payment, by any person, association, partnership, or corporation of any fireworks. It includes a gift made as a means of evading the provisions of this chapter.

“Council” or “Tribal Council” means the Squaxin Island Tribal Council.

“Enrolled Tribal Member” or “Tribal Member” means a person who is an enrolled member of the Squaxin Island Tribe.

“Executive Director” means the Squaxin Island Executive Director, hired by the Tribal Council pursuant to the Constitution, who is responsible for the execution of tribal laws and policies and the management of all tribal business.

“Fireworks” means any combustible or explosive composition or any substance or combination of substances, or article exclusively prepared for the purpose of producing a visible or audible effect by combustion, explosion, deflagration, or detonation, and shall include blank cartridges, firecrackers, torpedoes, skyrocket, roman candles, aerial bombs, sparklers, rockets, or other fireworks of like construction and any fireworks containing any explosive or flammable compound, or any other tablets other than medicinal tablets, or other device containing any explosive substance hereinafter more specifically described, but shall not include firearms.

“Firework stand” means a location or establishment at which fireworks are offered for commercial sale.

“Immediate Family Member” means a member of the family unit comprised of the husband of wife or two unmarried partners sharing a living space, mother, father, brother, sister, and/or children (whether natural or adopted).

“Reservation” means the Squaxin Island Tribal Reservation established by the Medicine Creek Treaty and includes all lands within the exterior boundaries thereof, whether held in fee, restricted or trust status, as well as all lands held in trust for the Tribe and within the Tribe's jurisdiction.

“Tribal Court” means the Squaxin Island Tribal Court or any court established by the Tribe to adjudicate violations of this Ordinance and regulations adopted under it.

6.04.040 Fireworks Committee

A. Fireworks Committee Established. There is hereby established the Squaxin Island Tribal Fireworks Committee (hereinafter “Fireworks Committee”).

B. Role of Fireworks Committee. The fireworks committee shall act in an advisory capacity to the Squaxin Island Tribal Council and shall have the authority:

1. To promulgate and recommend regulations to Squaxin Island Tribal Council for all aspects for fireworks sales and safety pursuant to this Ordinance; and

2. To monitor and inspect, in conjunction with Tribal Law Enforcement, possession of fireworks and all wholesale and retail fireworks sales on the Reservation for compliance with this ordinance and all regulations adopted under it.

C. Membership and Officers

1. Appointment and Term. The Tribal Council may appoint (7) seven Squaxin Island Tribal Members to serve as members of the Fireworks Committee. The initial term of two of the Committee members shall be one year; the initial term of two other Committee members shall be two years; and the initial term of three other Committee members shall be three years. After the initial terms, each Committee member shall serve a three-year term.

2. Officers. The Fireworks Committee shall select by consensus a Chairperson at its first meeting prior to opening of the fireworks season.

D. Vacancy, Removal and Resignation

1. Vacancy. The Tribal Council may, on its own or at the request of a member of the Fireworks Committee, declare a position to be vacant if a Fireworks Committee member is unwilling or unable to fulfill their duties, provided:

a. The Tribal Council appoints an enrolled member to fill the vacant position to serve the remainder of the unexpired term; and

b. Notice of any proposed removal must be in writing, state the reason for the proposed removal and be delivered to the member at least seven (7) days prior to Council review.

2. Removal. The Fireworks Committee may submit to the Tribal Council a “Notice of Proposed Removal and Declaration of Vacancy” for review for the following:

a. For failure to attend two consecutive meetings without prior notice to the Fireworks Committee stating the reason for the absence; or

b. For good cause stated, including, but not limited to, a violation of this Ordinance or the regulations adopted under it; and/or failure to pay any fines imposed pursuant to this Ordinance.

3. Resignation. A member of the Fireworks Committee may resign the position. Such resignation must be in writing and submitted to the Tribal Council.

E. Meetings and Voting.

1. The Fireworks Committee members shall schedule their first regular meeting at least thirty (30) days prior to the opening of fireworks season each year. Additional meetings may be scheduled as needed.

2. All meetings shall be called by the Chairperson, or by a majority of the members of the Fireworks Committee, with two days written notice to each member, stating the place, day, and hour of the meeting and any purpose for which the meeting was called.

3. For the purpose of conducting business, a quorum shall be required for any meeting. Four members of the Committee shall constitute a quorum.

4. Voting shall be by consensus. If consensus cannot be reached, alternative recommendations of the proposed action by each member shall be presented to the Tribal Council.

6.04.050 Wholesale Fireworks Permits and Sales

Authorized Wholesalers: No person shall make wholesale sales of fireworks on the Reservation without a valid annual Wholesale Fireworks Permit issued by the Squaxin Island Tribe.

6.04.060 Retail Fireworks Sales and Permits

No commercial sale of fireworks shall be made on the Reservation unless the seller has a current Retail Fireworks Sales Permit and Buying Authorization Card ("Permit") issued by the Tribe and such Permit has not been revoked or suspended. Permits shall be issued only to enrolled Squaxin Island Tribal Members and shall be approved only for the sale of fireworks from retail fireworks stands on the Reservation. Wholesale purchases and/or retail sales of fireworks from other than a fireworks stand is strictly prohibited. Permits must be renewed annually (replacement charge of \$10 per lost, misplaced or damaged permit or card).

A. Qualifications for Retail Fireworks Sales Permits. To qualify for a Permit, an applicant must have the following qualifications:

1. Be an enrolled member of the Squaxin Island Tribe “in good standing” (no outstanding fines or taxes); and
2. Be at least eighteen years of age;
3. Have no outstanding fines imposed by the Squaxin Island Tribal Court for violations of this Ordinance or any regulations promulgated under it;
4. Have paid all applicable fees and other charges under this Ordinance or any regulations promulgated under it;
5. Make sales on the Reservation as allowed by the Tribe; and
6. Demonstrate likelihood to comply with all provisions of this Ordinance and any regulations promulgated under it.

B. Action on Permit Application. Within ten (10) days of receipt of an application, the Executive Director shall determine whether an applicant qualifies for a Retail Fireworks Sales Permit as provided in sub-section (A) above. The Executive Director shall either approve and issue the Permit to a qualified applicant, or shall notify the applicant in writing of the reason for denial of the Permit. All decisions of the Executive Director may be appealed to the Tribal Council. The decision of the Tribal Council shall be final.

C. Permit Fees. All retail fireworks stand owner/operators will be required to submit with their application a Retail Fireworks Sales Permit fee. The fee amount, which may include a refundable cleaning deposit, shall be established by the Tribal Council. The Tribal Council shall determine when the fee must be paid, and may require that all or part of the Permit fee must be paid prior to entry of the applicant’s name in any lottery for fireworks stands. All Permit, lease and cleaning deposit fees may be changed by the annual fireworks sales and safety regulations as approved by the Tribal Council.

6.04.070 Fireworks Stands

The tribe may authorize fireworks stands to be located on the Reservation as follows:

A. Fireworks stand owners will normally be selected by lottery if there are more requests for stands than there is space available. However, nothing in this section prohibits the Tribal Council from authorizing a bid process to select stand owners.

B. Lease fees for tribally owned property will be established by the annual Fireworks Sales and Safety Regulations (FSSR) as approved by the Tribal Council. Selected enrolled members must pay the lease fee, plus any refundable cleaning deposit, prior to opening their fireworks stand.

C. A fee for portable toilets, trash receptacles, or other goods and services, may be incorporated into the lease fees established by the annual FSSR, as approved by the Tribal Council.

D. No deferred payments on Permits and fees are authorized.

6.04.080 Terms of Permits

Each Retail Fireworks Permit shall state such terms and conditions necessary to achieve the purpose of this Ordinance, provided the Permit shall only entitle the permittee to operate one fireworks stand.

6.04.090 Transfer of Permit Prohibited

The Retail Fireworks Permit may not be transferred to any other person or applied to a stand at a location other than the one designated within the permit or otherwise assigned by the Tribe.

6.04.100 Refunds

A. Permit fees paid at time of permit application shall be promptly refunded if the Executive Director determines that the applicant does not qualify for a Permit.

B. Cleaning deposit refunds shall be refunded as follows:

1. Unless otherwise established by the Tribal Council, a fireworks stand owner must collect and properly dispose of all garbage and debris in and around the fireworks stand within three (3) days after the season. The fireworks stand must be dismantled and moved.

2. Following the three (3) days, or other period as established by the Tribal Council, the Fireworks Committee, Law Enforcement and/or Tribal Staff will inspect each fireworks stand for compliance.

3. Upon determination of compliance with the above, the cleaning deposit shall be refunded within thirty (30) days following the close of fireworks season.

4. Upon a determination of failure to comply with the above, the cleaning deposit shall be forfeited to the Tribe. In addition, failure to comply may result in other penalties and fines contained in Violations and Penalties, and the Executive Director may deny future Permits to the fireworks stand owner for a period of up to three (3) years.

6.04.110 Non-payment of Fines as Grounds for Denial of Permit

No Permit shall be issued to an applicant who has outstanding fines imposed by the Squaxin Island Tribal Court for violations of this Ordinance or any regulations promulgated under it.

6.04.120 Retail Fireworks Stand: Operations and Sales

A. Display of Permit. Every Retail Fireworks Sales Permit issued pursuant to this Ordinance shall be prominently displayed at the fireworks stand authorized by the Permit.

B. Employees. No person under the age of fifteen (15) shall be authorized to assist in the operation of fireworks stand, except in the presence of immediate adult supervision. At the time of application for the Permit, the owner/operator must list all employees or persons that will be working in their stands who are not enrolled tribal members. Fireworks stand owners/operators are only authorized to employ or allow sales of fireworks to be made by a person who is either:

1. An enrolled member of the Squaxin Island Tribe, or a member of another federally recognized tribe or Alaskan Native; or
2. An immediate family member of the fireworks owner/operator or immediate family member of an enrolled Squaxin Island tribal member.

6.04.130 Violations and Penalties

A. Prohibited Fireworks.

1. The sale or possession of any firework prohibited by federal law shall be prohibited under this Ordinance.

2. Only sales of “consumer fireworks”, those formerly classified as “Class C Common Fireworks” and now classified as “Fireworks 1.4G” under federal law, are permitted. “Consumer fireworks” generally includes cone fountains, cylindrical fountains, roman candles, skyrockets, firecrackers, mines and shells, helicopter-type rockets, certain sparkers, and revolving wheels. “Consumer fireworks” generally does not include M-80’s, M-100’s, quarter sticks, blockbusters, cherry bombs and other similar devices.

3. The seller is solely responsible for determining whether a particular firework complies with federal law.

4. The Tribal Council shall have the power to ban on the Reservation the sale or possession of any particular type, sort or kind of fireworks whether or not such fireworks are permitted under other applicable law.

B. Unlawful Discharge of Fireworks.

1. It is unlawful to discharge fireworks anywhere on a site established by the Tribe for the sale of fireworks.

2. It is unlawful to discharge fireworks in a manner that causes injury or damage to any person, animal or property, or in a manner that is likely to cause such injury or damage.

C. Other Prohibitions

1. It shall be unlawful to sell fireworks to a youth under the age of 13, without the presence of the youth's parent or guardian.

2. It shall be unlawful to smoke within 100 feet of a fireworks stand.

3. It shall be unlawful for any owner/operator or employee of the owner/operator to consume alcohol or be under the influence of alcohol or drugs while operating the fireworks stand, except over-the-counter or prescription medication prescribed to the user of the medication that does not interfere with the owner/operator's or employee's ability to safely store, sell, possess and handle fireworks.

D. Civil Fines. Persons convicted of violating any part of this ordinance shall be subject to the following fines:

1. Selling or Possessing Prohibited Fireworks – a fine not to exceed \$2,000.00

2. Unlawful Discharge of Fireworks – a fine not to exceed \$2,000.00

3. Other Prohibitions – a fine not to exceed \$1,000.00

E. Civil Forfeitures. A person attempting to sell prohibited fireworks shall forfeit their fireworks stand and its contents.

F. Revocation/Suspension of Permit. The Executive Director or the Chief of Police may revoke or suspend a permit at any time for any reason.

6.04.140 Enforcement

A. Tribal Law Enforcement Officers. Tribal Law Enforcement Officers may inspect fireworks stands at any time to ensure compliance with this Ordinance; any regulations adopted hereunder, the Use Agreement, or any provision of the Squaxin Island Law and Order Code, or as necessary for safety reasons.

B. Tribal Court Jurisdiction. The Squaxin Island Tribal Court shall have exclusive jurisdiction over any dispute or incident related to this ordinance.

C. Nothing in this ordinance shall incorporate the laws of the State of Washington regarding fireworks into law of the Squaxin Island Tribe.