



SQUAXIN ISLAND TRIBE

RESOLUTION NO. 04-58

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 tribal members, and of protecting and managing the lands and treaty resources and rights of the Tribe; and

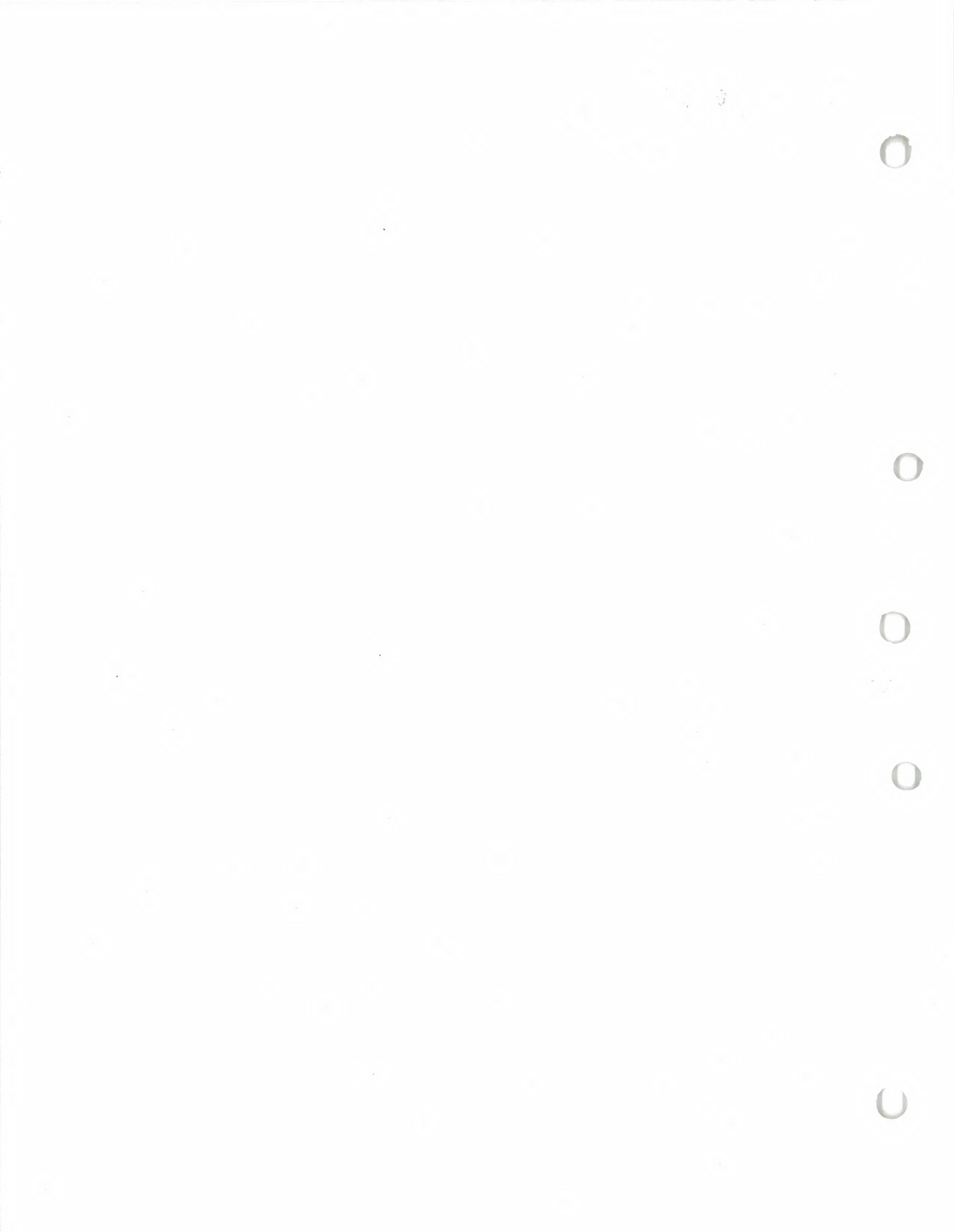
WHEREAS, the Tribe is a federally-recognized Indian Tribe possessing reserved powers, including the powers of self-government; and

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 finds that regulation of fireworks and safety is essential to the health and welfare of the Squaxin Island Tribe and its members.

NOW THEREFORE BE IT RESOLVED, that the Squaxin Island Tribal Council hereby adopts the following amendments to the Fireworks and Safety Ordinance:

1. Section 6.04.060(A) shall be revised to read as follows:
 - A. Qualifications for Retail Fireworks Sales Permits. To qualify for a Permit, an applicant must have at the time of application and maintain during the term of the Permit the following qualifications:
2. Section 6.04.130(F) shall be revised to read as follows:



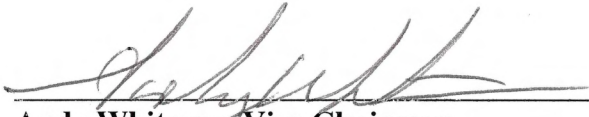
F. Revocation/Suspension of Permit. The Executive Director or the Chief of Police may revoke or suspend a permit at any time for any reason including the failure to meet and/or maintain qualifications for retail fireworks sales permits. (Res. 02-62 § 2; Res. 02-61 (part); Res. 01-43 (part))

CERTIFICATION

The Squaxin Island Tribal Council hereby certifies that the foregoing Resolution was adopted at the regular meeting of the Squaxin Island Tribal Council, held on this 30th day of August, 2004, at which time a quorum was present and was passed by a vote of 4 for and 0 against, with 0 abstentions.


David Lopeman, Chairman

Attested by: 
Vincent Henry, Sr., Secretary


Andy Whitener, Vice Chairman

Chapter 6.04

FIREWORKS AND SAFETY ORDINANCE

Sections:

- 6.04.010 Title.
- 6.04.020 Authority and declaration of purpose.
- 6.04.030 Definitions.
- 6.04.040 Fireworks Committee.
- 6.04.050 Wholesale Fireworks Permits and sales.
- 6.04.060 Retail Fireworks Sales and Permits.
- 6.04.070 Fireworks stands.
- 6.04.080 Terms of Permits.
- 6.04.090 Transfer of Permit prohibited.
- 6.04.100 Refunds.
- 6.04.110 Non-payment of fines as grounds for denial of Permit.
- 6.04.120 Retail fireworks stand--Operations and sales.
- 6.04.130 Violations and penalties.
- 6.04.140 Enforcement.

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. (Res. 02-61 (part); Res. 01-43 (part))

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 this chapter 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. (Res. 02-61 (part); Res. 01-43 (part))

6.04.030 Definitions.

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

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

"Commercial properties of the Tribe" shall include all properties under the control or auspices of Island Enterprises, the Little Creek Casino, Skookum Creek Tobacco Co., Inc., or any other commercial enterprise of the Tribe.

"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, skyrockets, 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 the spouse or unmarried partner sharing a living space, parent(s), child(ren) (whether natural or adopted), grandparent(s), and grandchild(ren), of an enrolled Squaxin Island Tribal member.

"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 resolution codified in this chapter and regulations adopted under it. (Res. 04-38 (part); Res. 02-62 § 1; Res. 02-61 (part); Res. 01-43 (part))

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 chapter; 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 chapter and all regulations adopted under it.

C. Membership and Officers.

1. Appointment and Term. The Tribal Council may appoint 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 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 chapter or the regulations adopted under it; and/or failure to pay any fines imposed pursuant to this chapter.

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. (Res. 02-61 (part); Res. 01-43 (part))

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. (Res. 02-61 (part); Res. 01-43 (part))

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 ten dollars (\$10.00) per lost, misplaced or damaged permit or card). No person may simultaneously hold more than one Retail Fireworks Sales Permit.

A. Qualifications for Retail Fireworks Sales Permits. To qualify for a Permit, an applicant must have at the time of application and maintain during the term of the Permit the following qualifications:

1. Be an enrolled member of the Squaxin Island Tribe "in good standing" (no outstanding fines, taxes or housing payments); and
2. Be at least eighteen (18) years of age;
3. Have no outstanding fines imposed by the Squaxin Island Tribal Court for violations of this chapter or any regulations promulgated under it;
4. Have paid all applicable fees and other charges under this chapter 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 chapter 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 subsection (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. (Res. 04-38 (part); Res. 02-103 (part); Res. 02-61 (part); Res. 01-43 (part))

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. (Res. 02-61 (part); Res. 01-43 (part))

6.04.080 Terms of Permits.

Each Retail Fireworks Permit shall state such terms and conditions necessary to achieve the purpose of this chapter, provided the Permit shall only entitle the permittee to operate one fireworks stand. (Res. 02-61 (part); Res. 01-43 (part))

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. (Res. 02-61 (part); Res. 01-43 (part))

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 days after the season. The fireworks stand must be dismantled and moved.

2. Following the three 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 years. (Res. 02-61 (part); Res. 01-43 (part))

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 chapter or any regulations promulgated under it. (Res. 02-61 (part); Res. 01-43 (part))

6.04.120 Retail fireworks stand--Operations and sales.

A. Display of Permit. Every Retail Fireworks Sales Permit issued pursuant to this chapter 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 owner/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
2. An immediate family member of the fireworks owner/operator. (Res. 04-38 (part); Res. 02-61 (part); Res. 01-43 (part))

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 chapter.

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, skyrocketers, 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.

3. It is unlawful to discharge fireworks on or onto any commercial properties of the Tribe.

C. Other Prohibitions.

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

2. It shall be unlawful to smoke within one hundred (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 chapter shall be subject to the following fines:

1. Selling or Possessing Prohibited Fireworks. A fine not to exceed two thousand dollars (\$2,000.00).

2. Unlawful Discharge of Fireworks. A fine not to exceed two thousand dollars (\$2,000.00).

3. Other Prohibitions. A fine not to exceed one thousand dollars (\$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 including the failure to meet and or maintain qualifications for retail fireworks sales permits. (Res. 02-62 § 2; Res. 02-61 (part); Res. 01-43 (part))

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 chapter; 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 chapter.

C. Nothing in this chapter shall incorporate the laws of the State of Washington regarding fireworks into law of the Squaxin Island Tribe. (Res. 02-61 (part); Res. 01-43 (part))