

SHOALWATER BAY INDIAN TRIBE

CODE OF LAWS

TITLE 11

FIREWORKS

Adopted: October 22, 1987

Public Hearing: September 26, 1987

Tribal Council Resolution: #10-22-87-33

SHOALWATER BAY INDIAN TRIBE
CODE OF LAWS



TITLE 11 – FIREWORKS
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SHOALWATER BAY INDIAN TRIBE
CODE OF LAWS



TITLE 11 - FIREWORKS

Chapter 11.1 General Provisions

11.1.010 Authority and Declaration of Purpose. This Code is enacted in order to provide for the safe and orderly use of fireworks within the Shoalwater Bay Indian Reservation— To regulate the sale of fireworks for the health and safety of Tribal Members and others living on the Shoalwater Bay Indian Reservation, or protection of Tribal Resources. All previous Fireworks Ordinances are hereby revoked by the passage of this amended Code. This ordinance is subject to change at any time by Tribal Council.

11.1.020 Definitions.

- a) "Fireworks" shall mean any device containing any combustible or explosive substance for the purpose of producing a visible or audible display of combustion, explosion, deflagration, or detonation, but not including any firearms.
- b) "Fireworks Stand" shall mean an establishment at which fireworks are offered for retail sale.
- c) "License" shall mean the authorization issued by the Shoalwater Bay Tribe under this Code to engage in the transport, possession, discharge, or sale of fireworks.
- d) "Licensee" shall mean the person to whom a license has been issued under this Code.
- e) "Tribal Court" shall mean the Shoalwater Bay Tribal Court having jurisdiction on the Shoalwater Bay Indian Reservation.
- f) "Crimes against Persons" shall mean any crimes against children, elders, and found guilty in any criminal jurisdiction.
- g) "Employee of Licensee" shall mean an authorized employee of the licensee over the age of 16.
- h) "Wholesaler" shall mean any person licensed to sell to licensed firework

retailers.

- I) "Wholesaler License" is for specific sale of wholesale fireworks to licensed firework retailers only.
- J) "Safe Storage" shall mean a metal container away from housing.

11.1.030 General Prohibition. It shall be unlawful for any person to transport, possess, discharge, sell, or offer for sale any fireworks within any area under the jurisdiction of the Shoalwater Bay Indian Tribe except as provided in this Code.

Chapter 11.2 Licensing

11.2.010 Fireworks License Required. The sale, offers for sale, transport, or transfer of fireworks shall be unlawful when done by any person unless the person has a valid Tribal Fireworks License, or is an approved Employee of the licensee.

- A) **Seasonal or Yearly License**- required to sale retail fireworks.
- B) **Satellite Wholesale License**- required for satellite wholesalers to sale fireworks to licensed stand owners.
- C) **Mobile Wholesale License**- required for mobile wholesalers to sale to licensed firework stands.
- D) **Display Permit**- is required for any person/business advertising a public display using class B or larger.

11.2.020 Eligibility For License. No license shall be issued to any person unless he/she is an enrolled member of the Shoalwater Bay Indian Tribe and is at least twenty-one (21) years of age.

11.2.030 License Application. Any person wishing to receive a Tribal Fireworks License shall apply to the Shoalwater Bay Tribal Council. The application **shall** provide the following information:

- 1) Name
- 2) Address
- 3) Telephone Number
- 4) Name and Location where fireworks will be sold [description and ,dimension of stand]
- 5) Length of fireworks stand

- 6) Criminal Background Check [for licensee and their employees] with fee payment.
- 7) Names of Authorized Employees must be listed on the Firework License.

11.2.040 Application Fee. Every applicant for Fireworks Sales License must submit with his/her application, the cost of the Criminal Background check for licensee and all Employees before receiving a license, and the fee associated with their license; Wholesaler and Annual Licenses are required to provide safe storage for bulk fireworks.

A) Seasonal License Fee -\$350.00 (which includes a non-refundable \$50.00 clean up fee) license valid from May 1st to August 31.

B) Yearly License Fee- \$700.00 (which includes a non-refundable \$100.00 clean up fee).

C) Satellite Wholesale License -\$1,000 for a satellite wholesale license

D) Mobile Wholesale License - \$500.00 for a mobile wholesale license.

E) Display Permit - \$500.00 for a display permit.

11.2.050 License Approval Process – Notice of Denial. Licenses shall be issued by the Tribal Council on a case by case basis. Any person whose application is denied shall be notified in writing of such action with a statement of the reasons for the denial.

11.2.055 Ineligibility For License. No license shall be issued to any person **unless** he/she receives positive results on the Criminal Background check with regards to crimes against persons [children].

11.2.060 Agents and Employees of Licensee. No youth under the age of sixteen (16) shall be allowed in the stand unless the licensee or authorized employee of Licensee is present in the stand. The licensee is responsible for all violations of this Code committed by his employees and/or others, while engaged in activities related to the sale or discharge of fireworks.

11.2.070 Duration of License. Three types of fireworks licenses are available.

- **Seasonal License** shall be effective from May 1st until August 31st. **The Fireworks stand; and all signage must be removed BEFORE the expiration date of this Seasonal License.** Failure to do so may result in denial of future license
- **One-Year License** shall be effective for a period of one year from the date of issuance.
- **Satellite Wholesale License** shall be effective for a period of one year from the date of issuance.
- **Mobile Wholesale License**-shall be effective from May 1st until August 31st.

A license is not required for possession of fireworks for the purpose of storage or personal use.

11.2.080 Suspension of License For Failure To Comply With Code.

Failure of the licensee to abide by the requirements of this Code will constitute grounds for suspension of the licensee's Tribal Fireworks License until the licensee is back in compliance, as well as enforcement of the remedies provided below.

CHAPTER 11.3 PROHIBITED FIREWORKS

11.3.010 Prohibited Fireworks. It shall be unlawful for any person to sell fireworks within the jurisdiction of the Shoalwater Bay Tribe unless the fireworks comply with Federal fireworks regulations. The regulations of the **UNITED STATES CONSUMER PRODUCT SAFETY COMMISSION, 16 C.F.R. 1500, ET SEQ.**, as they may be amended, are hereby incorporated by reference as part of this Code.

A) No Fireworks Zone. It shall be unlawful for any person to ignite any fireworks within the posted "NO FIREWORKS ZONE". Please refer to updated zone map.

CHAPTER 11.4 SAFETY REQUIREMENT FOR FIREWORKS STANDS AND WHOLESALERS

11.4.010 Retail Sales From Motor Vehicles Prohibited. No person shall sale retail fireworks from any motor vehicle or any other location other than that stated on valid Fireworks License. Wholesalers are required to store fireworks in a metal container.

11.4.020 Fire Extinguisher Required. All fireworks outlets shall have at least one appropriate fire extinguisher readily accessible in the stand. At least two fire extinguishers are required in stands of twenty (20) feet long. The fire extinguisher(s) shall have at least ten pounds (10 lbs.) of dry chemical or the equivalent. It is the responsibility of Licensee to maintain properly working fire extinguishers.

11.4.030 Smoking Prohibited. Smoking shall not be permitted in a stand or within fifty (50) feet of the stand. Signs shall be posted at each outlet advising the public that smoking is not permitted in the area.

11.4.040 Discharge of Fireworks Restricted. No person shall discharge fireworks within fifty (50) feet of a stand. Signs shall be posted at each outlet advising the public that the discharge of fireworks is not permitted in the area.

CHAPTER 11.5 ENFORCEMENT

11.5.010 Penalties. A violation of any section of this Code shall be a civil infraction, under the jurisdiction the Shoalwater Bay Indian Tribe. Any person who commits a civil infraction of this Code shall be assessed a fine not to exceed one thousand dollars (\$1,000.00). *In addition to the fine*, the Court may impose restitution for *actual* damages. **Any person who sells fireworks without first obtaining a license is subject to a mandatory \$1,000.00 fine. Additionally all operating stands are subject to full inspection by Tribal Law Enforcement.**

11.5.020 Additional Relief. The Tribal Court may, in addition to other remedies in this Code, grant to the Tribe such other relief as is necessary and proper for the enforcement of this Code, including—but not limited to—suspension or revocation of the license and injunctive relief for acts in violation of this Code.

11.5.030 Contraband – Seizure, Forfeiture. All fireworks within the jurisdiction of the Shoalwater Bay Tribe held, owned, or possessed by any person in violation of this Code are hereby declared to be contraband, subject to forfeiture to the Tribe. Upon application of the Council, the Tribal Judge shall issue an Order directing Tribal Law Enforcement to seize contraband fireworks. A copy of the Court Order shall be delivered to the person from whom the property was seized or shall be posted at the place where the property was seized. See Section 11.3.010.

11.5.040 Forfeiture Hearing. Within two weeks following the seizure of contraband under Section 11.5.030, a hearing shall be held in Tribal Court at which time the operator or owner of the contraband shall be given an opportunity to present evidence in defense of his/her activities.

11.5.050 Notice of Forfeiture Hearing. Adequate notice of the hearing shall be given to the person from whom the property was seized, if known. If the person is unknown, notice of the hearing shall be posted at the place where the contraband was seized and at some other public place. The notice shall describe the property seized, and the time, place, and cause of seizure and given the name and place of residence, if known, of the person from that the property was seized.

11.5.060 Disposition of Forfeited Property. If the Court declares the fireworks to be forfeited, all fireworks which are otherwise legal under this Code shall be auctioned, with proceeds paid to the Shoalwater Bay Tribe. Any fireworks which are otherwise illegal shall be safely disposed of.

11.5.070 Seizure – May Be In Addition To other Remedies. The seizure of contraband under Section 11.5.030 may be in addition to or separate from any other remedy in this Code available to the Tribe for violations of this Code.

[ADD SECTION REGARDING SELLING TO CHILDREN—OR PEOPLE BEING RESPONSIBLE FOR THEIR OWN CHILDREN BUYING AND LIGHTING FIREWORKS???)

CHAPTER 11.6 SEVERABILITY

11.6.010 Severability. If any provision of this Code or its application to any person or circumstance is held invalid, the remainder of this Code, or the application of the provision to other persons or circumstances is not affected.

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INSERT "APPLICATION - FIREWORKS SALES – ONE-YEAR LICENSE"

DRAFT

INSERT "FIREWORKS SALES – ONE-YEAR LICENSE"

DRAFT

INSERT "APPLICATION - FIREWORKS SALES – SEASONAL LICENSE"

DRAFT

INSERT "FIREWORKS SALES – SEASONAL LICENSE"

DRAFT

INSERT "APPLICATION – FIREWORKS SALES- WHOLESALE LICENSE"

DRAFT

DRAFT



SHOALWATER BAY INDIAN TRIBE

Tokeland, Washington 98590

Telephone 267-6766

SHOALWATER BAY INDIAN TRIBE

RESOLUTION # **10-22-87-33**

WHEREAS, the Shoalwater Bay Indian Tribe is a federally recognized Tribe headquartered on the Shoalwater Bay Indian Reservation in the state of Washington; and

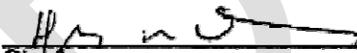
WHEREAS, the Shoalwater Bay Tribal Council has the power to regulate the conduct of business activities within the Tribe's jurisdiction and to enact ordinances and protect the safety and welfare of all persons within the Shoalwater Bay Tribe's jurisdiction under Article VI, section 1 (e) and (f) of the Constitution of the Shoalwater Bay Indian Tribe; and

WHEREAS, a public hearing regarding the attached Title 11, Fireworks, was held on September 26, 1987 and the Title has been recommended for adoption; now

THEREFORE BE IT RESOLVED, that the Shoalwater Bay Tribal Council does hereby approve and adopt the attached "TITLE 11 FIREWORKS" as part of the laws of the Shoalwater Bay Indian Tribe.

***** C E R T I F I C A T I O N *****

The above resolution was passed at a meeting of the Shoalwater Bay Tribal Council held at the Shoalwater Bay Tribal Center on _____, 1987 at which a quorum was present by a vote of 3 FOR and 0 AGAINST, 0 ABSTENTIONS.



Chairperson
Shoalwater Bay Indian Tribe

ATTEST:



Secretary
Shoalwater Bay Indian Tribe

131/RESO.SB6