

ST. CROIX CHIPPEWA INDIANS OF WISCONSIN
ORDINANCE REGULATING THE SALE AND POSSESSION OF FIREWORKS

DEFINITIONS. As used in this Ordinance, the following terms shall have the meanings provided below:

- (a) "Fireworks" means anything manufactured, processed or packaged for exploding emitting sparks or combustion which does not have another common use, but does not include any of the following:
- (1) Fuel or lubricant;
 - (2) A firearm cartridge or shotgun shell;
 - (3) A flare used or possessed or sold for use as a signal in an emergency or in the operation of a railway, aircraft, watercraft or motor vehicle;
 - (4) A match, cigarette lighter, stove, furnace, candle, lantern or space heater;
 - (5) A toy snake which contains no mercury;
 - (6) A model rocket engine;
 - (7) Tobacco and tobacco product;
 - (8) A cap containing not more than one-quarter grain of explosive mixture, if the cap is used or possessed or sold for use in a device which prevents direct bodily contact with a cap when it is in place for explosion;
 - (9) A sparkler on a wire or wood stick not exceeding 36 inches in length or 0.25 inch in outside diameter which does not contain magnesium, chlorate or perchlorate;
 - (10) A device designed to spray out paper confetti or streamers and which contains less than one-quarter grain of explosive mixture;
 - (11) A device designed to produce an audible sound but not explode, spark, move or emit an external flame after ignition and which does not exceed 3 grams in total weight; or
 - (12) A device which emits smoke with no external flame and does not leave the ground.
- (b) "Indian Land" means any land in which title thereto is held in trust by the United States for the benefit of the Tribe or a tribal member, and any land owned by the Tribe or a tribal member.
- (c) "Tribe" means the St. Croix Chippewa Indians of Wisconsin.
- (d) "Tribal Court" means the St. Croix Tribal Court.

102. PURPOSE. The purpose of this ordinance is to provide for the safety and welfare of reservation residents by regulating the use, possession, and sale of fireworks on Indian Land.

103. AUTHORITY. This ordinance is adopted pursuant to Article V of the Tribal Constitution.

104. EFFECTIVE DATE. This ordinance shall take effect upon its adoption by resolution by the Tribal Council.

105. SEVERABILITY AND NON-LIABILITY.

(a) If any section, provision, or portion of this ordinance is adjudged to be unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected thereby.

(b) The Tribe declares that there is no liability on the part of the Tribe, its agencies, agents, or employees for any damages which may occur as a result of reliance upon or conformance with this ordinance. The Tribe by the adoption of this ordinance does not waive its sovereign immunity in any respect.

106. IMPLIED CONSENT. Entry upon Indian Land without permission of the Tribe is prohibited. Such permission when given is expressly conditioned upon the consent of the person entering such land to the jurisdiction of the Tribe for purposes of enforcement of this ordinance.

201. SALE OF FIREWORKS. No person may sell or possess with intent to sell fireworks on Indian Land without having a permit for said purposes issued by the St. Croix Tribal Council, or its designated agent.

202. FIREWORK SALE PERMIT. Any person who desires to engage in the sale of fireworks on Indian Land shall apply to the St. Croix Tribal Council for a permit to do so, utilizing the form provided for said purposes, which shall specify the following:

- (a) The identity of the applicant and all employees, agents, or representatives who shall engage in sale activities under the applicant's permit;
- (b) The location of the sale of activities and, if different, the location of any storage facility of fireworks under the applicant's control;
- (c) The type and class of fireworks for which sale is contemplated; and
- (d) A permit processing fee of One Dollar (\$1.00).

203. TERM OF PERMIT. No permit issued under this ordinance shall be valid for a period of longer than 120 days.

204. DISPLAY OF PERMIT. Any person issued a permit by the Tribe for the sale of any type of class fireworks shall display said permit in a prominent location at the authorized place of sale.

205. SALE RESTRICTIONS. No person shall sell or possess with intent to sell fireworks if:

- (a) The type or class of fireworks is subject to regulation and permitting under 18 U.S.C. s. 841, et seq.; or
- (b) The purchase of any fireworks is sought by a person under the age of 18 years;
- (c) The sale location is in a building or other structure which is not used solely for commercial purposes.

206. STORAGE OF FIREWORKS FOR SALE. No person who sells or possesses fireworks with the intent to sell shall store them in a building occupied for residential purposes or in any structure located on the premises of a residential premises.

301. USE OF FIREWORKS. Any and all classes and types of fireworks may be purchased, possessed and used by any of the following:

- (a) The Tribe or any subdivision thereof authorized to use fireworks by the St. Croix Tribal Council;
- (b) A public authority;
- (c) A fair association;
- (d) An amusement park;
- (e) A park board;
- (f) A civic organization;
- (g) A group of individuals.

302. FIREWORKS DISPLAY. No entity shall advertise or undertake to engage in a display of fireworks open to members or the public without obtaining prior thereto, and at a minimum of 48 hours in advance thereof, a fireworks display permit issued by the Tribe.

303. DISPLAY PERMIT AND APPLICATION. Any entity for which a display permit is required under this ordinance shall make written application therefor to the St. Croix Tribal Council, on a form provided for said purposes, and shall specify:

- (a) The full name of the applicant, and the names of the persons who shall set up and set off any fireworks in a display;
- (b) The date of the proposed display;
- (c) The location of the display; and
- (d) The amount, if any, of an admission charge to the display.

304. RESTRICTIONS ON USE OF FIREWORKS. No person under the age of 18 years shall purchase or use any Class C fireworks on Indian Land.

305. NOTICE TO NON-RESIDENTS. Any individual authorized to sell fireworks pursuant to Section 201 and 202 shall display a written warning to non-residents of the St. Croix Reservation that purchase and off-reservation possession of certain types of fireworks without local government permits may be in violation of Wisconsin State Statutes.

401. PARENTAL LIABILITY. A parent or legal guardian of a tribal child who consents to the use of fireworks by said child is liable for damages caused by the child's use of fireworks.

402. PENALTIES FOR NON-COMPLIANCE. Any person who violates the provisions of this ordinance shall be subject to the following penalties:

(a) Fireworks stored, sold, possessed or used in violation of this ordinance shall be seized. The fireworks shall be destroyed after conviction for a violation, and otherwise returned to the owner.

(b) A civil remedial money forfeiture may be imposed by the Tribal Court for any violation of this ordinance; minimum penalty for any such violation shall be \$15.

(c) Any person who sells or possesses fireworks with the intent of sale without obtaining the required permit shall be subject to a minimum forfeiture upon conviction therefor in the amount of \$150.

(d) Any person or organization who uses fireworks without the required permit shall be subject to a minimum forfeiture in the amount of \$75.

403. OTHER PENALTIES AUTHORIZED. Use of fireworks by any person may also subject said person to liability or legal action for violation of the laws of the Tribe or the State of Wisconsin concerning curfew, public disturbances, and damage to persons or property.

COURT CODES. Any person adjudicated by the Tribal Court as have violated this ordinance shall be liable for court costs in the amount of \$10.

405. PARTIES TO A VIOLATION. Whoever is concerned in the commission of a violation of this ordinance is a principal and may be charged with a violation although he or she did not directly commit it, and although the person who directly committed has not been convicted of a violation. A person is concerned in the commission of a violation if the person:

- (a) Directly commits the violation;
- (b) Aids and abets the commission of it, or counsels another to commit it;
- (c) Is a party to a conspiracy with another to commit, is or advises, hires, or counsels, or otherwise procures another to commit it.

501. ENFORCEMENT OFFICERS. Any tribal law enforcement officer may enforce the provisions of this ordinance.

502. JURISDICTION. Jurisdiction is hereby conferred upon the tribal court over all matters related to enforcement of this ordinance.