TITLE 17 - HEALTH AND SAFETY

CHAPTER 4 - FIREWORKS

Legislative History: Ordinance No. 07-82, "Papago Fireworks Safety Ordinance," was enacted by the Papago Council on June 11, 1982 and approved by the Papago Agency Superintendent on June 17, 1982.
Statement of Purpose: An ordinance regulating the manufacture, sale, possession, use, distribution, display or explosion of fireworks within the exterior boundaries of the Papago Reservation.

BE IT ENACTED by the Council of the Papago Tribe of the Papago Reservation, as follows:

Section 1 Short Title

This ordinance may be cited as the Papago Fireworks Safety Ordinance.

Section 2 Interpretation

This ordinance shall be deemed an exercise of the police power of the Papago Tribe for the protection of the public welfare, peace and safety of the people of the Papago Reservation, and all provisions of this ordinance shall be liberally construed for the accomplishment of this purpose.

Section 3 Definitions

In this ordinance, unless the context otherwise requires:

A. "Fireworks" means any combustible or explosive composition, substance or combination of substances, or any article prepared for the purpose of producing a visible or audible effect by combustion, explosion, deflagration or detonation, and toy cannons in which explosives are used, the type of balloon which requires fire underneath to propel it, firecrackers, torpedoes, skyrockets, roman candles, daygo bombs, sparklers or other fireworks of like construction, fireworks containing any explosive or combustible compound, and any tablet or other devise containing an explosive substance. The term "fireworks" does not include toy pistols, toy canes, toy guns or other devices in which paper caps containing not more than twenty-five hundredths grains of explosive compound are used if constructed so that the hand cannot come in contact with the cap when in place for the explosion, or toy pistol paper caps which contain less than twenty hundredths grains of explosive mixture, or fixed ammunition or primers therefor.

B. "Person" includes individual, partnership, firm or corporation.

Section 4 Fireworks Prohibited

A. Except as otherwise provided by this ordinance it is unlawful to sell, offer or expose for sale, use, explode or possess any fireworks within the exterior boundaries of the Papago Reservation.

B. This section shall not be construed to prohibit or restrict the possession of aerial set pieces designed for use in pyrotechnical displays, or the display of such set pieces by the Papago Tribe, Districts, villages, fair associations and not-for-profit organizations or groups who have obtained a permit in accordance with the terms of this ordinance.

Section 5 Permit for Public Display

A. The Papago Tribe, Districts, villages, fair associations and not-for-profit organizations or groups may apply for
permits for supervised public displays of fireworks from the Chairman of the Papago Tribe.

B. Application for a permit shall be accompanied by written evidence that the District in which the display is to be located has approved of such display. Each application shall be made in writing not less than five days prior to the date of the display. Every display shall be handled by a competent operator, and shall be of a character and located discharged and fired so that it will not be hazardous to property or endanger any person. Before a permit is granted, the operator, location and handling of the display shall be approved after investigation, by the fire chief of the village or the Papago police as is appropriate. After a permit is granted, the sale, possession, use and distribution of fireworks for the display shall be lawful for that purpose. No permit is transferable or assignable.

Section 6 Permitted Uses

This ordinance shall not be construed to prohibit;

1. The sale by a wholesaler, dealer or jobber of fireworks which are not prohibited by this ordinance.

2. The use of fireworks by transportation agencies for signal purposes or illumination.

3. The sale or use of explosives for blasting or other legitimate industrial purposes.

4. The use of fireworks or explosives, or both, by farmers, ranchers and their employees, and by Tribal and federal employees who manage wildlife resources, to rally, drive or otherwise disperse concentrations of wildlife for the purpose of protecting property or wildlife.

Section 7 Seizure

The Papago police, or other peace officer shall seize, remove or cause to be removed, at the expense of the owner, all fireworks or combustibles offered or exposed for sale, stored or possessed in violation of this ordinance.

Section 8 Violation

Any person who violates any provision of this ordinance shall be guilty of an offense punishable by a fine of not more than five hundred dollars, or by imprisonment in the tribal jail for not more than six months, or both. Nothing, however, in this ordinance shall be construed to authorize or require the criminal trial and punishment of non-Indians except to the extent allowed by any applicable present or future Act of Congress or any applicable court decision.

The foregoing Ordinance was duly enacted by the Papago Council on the 11th day of June, 1982, at a meeting at which a quorum was present with a vote of 980.0 for; 84.0 against; 84.0 not voting; and 0 absent, pursuant to the authority vested in the Papago Council by Section 2 (e), (f), (h) and (m) and Section 3 (b), (e) and (h) of Article V of the Constitution and By-laws of the Papago Tribe as amended, ratified by the Papago Tribe on December 12, 1935, and approved by the Secretary of the Interior on January 6, 1937, (48 Stat. 984), pursuant to Section 16 of the Act of June 18, 1934. Said Ordinance is effective as of the date of its approval by the Superintendent of the Papago Agency, and is subject to review by the Secretary of the Interior.
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THE PAPAGO COUNCIL

Max H. Norris, Chairman

ATTEST:
Rose Johnson, Secretary

ORDINANCE APPROVED this 17th day of June, 1982.

Curtis C. Nordwall
Superintendent, Papago Agency
Through: Superintendant, Papago Agency

Mr. Max H. Norris
Chairman, Papago Council

Dear Mr. Norris:

On June 11, 1982, the Papago Council enacted Ordinance No. 07-82. Subject ordinance regulates the manufacture, sale, possession, use, distribution, display or explosion of fireworks within the exterior boundaries of the Papago Reservation.

In our review, we find no legal objection to its passage. I hereby concur with the Superintendent's June 17 approval, and Ordinance No. 07-82 remains in full force and effect as of the date of approval.

Sincerely yours,

[Signature]

Acting Asst. Area Director

Attachment