

ORDINANCE NO. 07-10



NAVAJO COUNTY FIREWORKS ORDINANCE

An ordinance of the Board of Supervisors of Navajo County, Arizona, adopting ordinance No. 07-10 (Navajo County Fireworks Ordinance); prohibiting the use of "permissible consumer fireworks" in the unincorporated areas of Navajo County during times when there is a reasonable risk of wildfires; establishing a permitting process for public fireworks displays utilizing "display fireworks"; and specifying criminal penalties for the violation of this ordinance.

1.) TITLE

This ordinance shall be known as the Navajo County Fireworks Ordinance.

2.) EFFECTIVE AREA

This ordinance shall be effective in the unincorporated areas of Navajo County, excluding areas under the jurisdiction of the United States, the State of Arizona, or a federally recognized Indian tribe.

3.) AUTHORITY/PURPOSE

This ordinance is established in accordance with A.R.S. § 36-1606 which authorizes the county to regulate the use of "permissible consumer fireworks" within the unincorporated areas of the county during times when there is a reasonable risk of wildfires in the immediate county. Additionally, the County is required by A.R.S. § 36-1603 to implement a permitting process for "display fireworks" utilized in public fireworks displays.

The purpose of this statute is to reduce and minimize the risk of fire dangers, including structural or wildland fires, associated with the use of fireworks in Navajo County, and to help ensure the safety of Navajo County residents attending public fireworks displays in unincorporated areas of the County.

4.) DEFINITIONS

For the purposes of this ordinance, the terms "consumer firework," "display firework," "fireworks," and "permissible consumer fireworks" shall have the same meanings as set forth in A.R.S. § 36-1601.

5.) AUTHORITY OF EMERGENCY MANAGEMENT DIRECTOR

The Navajo County Emergency Management Director has the authority under Navajo County's "Outdoor Fire Ordinance" (Ordinance No. 01-06) to establish restrictions on outdoor fires and emergency fire restrictions. Under this ordinance, the Emergency Management Director will additionally have the authority to restrict the use of "permissible consumer fireworks," and to issue permits for public fireworks displays in a manner consistent with the provisions set forth herein.

6.) PROHIBITION ON USE OF FIREWORKS

Except as specifically allowed in this ordinance, it shall be unlawful for any person to use fireworks, including consumer fireworks or display fireworks, in the unincorporated areas of Navajo County.

7.) USE OF PERMISSIBLE CONSUMER FIREWORKS

The use of permissible consumer fireworks shall be permitted within the unincorporated areas of Navajo County except for such times and in such areas where the Emergency Management Director, after consultation with the fire chiefs or their designees in the relevant zone, has established restrictions on outdoor fires or emergency fire restrictions pursuant to Ordinance No. 01-06.

The term "permissible consumer fireworks" is specifically limited to the definition set forth in A.R.S. § 36-1601(5), and includes:

- A.) Ground and handheld sparkling devices;
- B.) Cylindrical fountains;
- C.) Cone fountains;
- D.) Illuminating torches;
- E.) Wheels;
- F.) Ground spinners;
- G.) Flitter sparklers;
- H.) Toy smoke devices;
- I.) Wire sparklers or dipped sticks;
- J.) Multiple tube fireworks devices and pyrotechnic articles.

Permissible consumer fireworks do not include anything that is designed or intended to rise into the air and explode or to detonate in the air or to fly above the ground,

including, for example, firework items commonly known as bottle rockets, sky rockets, missile-type rockets, helicopters, torpedoes, roman candles and jumping sticks.

8.) DISPLAY FIREWORKS

Any person, entity, or organization may apply to the Emergency Management Director for a permit for the use of display fireworks and other fireworks as part of a public fireworks display. Any use of display fireworks or fireworks not included within the definition of permissible consumer fireworks without a permit is prohibited.

A.) Applications

Applications to conduct a public display of fireworks using display fireworks shall be submitted to the Navajo County Emergency Management Director on a form prescribed by the Board of Supervisors not more than sixty (60) days, but not less than thirty (30) days, prior to the date of the proposed display.

B.) Bond

The Application submitted to the Emergency Management Director must be accompanied by a requisite bond in an amount not less than \$500.00, or in such other amount as deemed appropriate by the Emergency Management Director not to exceed one-million (\$1,000,000) dollars. Alternatively, an applicant may provide proof of a liability insurance in an similar amount along with a letter from the issuing insurance company indicating that the applicant's insurance will cover the applicant for liability connected to this event. Failure of an applicant to submit a bond or proof of insurance shall result in the denial of a permit.

C.) Application Requirements

Applications must be accompanied by a map of the display area, which designates the proposed seating area for spectators, nearby structures, parking areas, public roads, the fallout zone, overhead lines, and fire department access to the area.

D.) Review of Applications

All applications for public fireworks displays shall be reviewed by the Navajo County Sheriff pursuant to A.R.S. 13-1603, who shall visit and inspect the display area. The Sheriff shall either recommend that the Emergency Management Director approve or disapprove the application. The Sheriff may recommend approval if it is determined that:

- a.) This display will be supervised by a competent pyrotechnic operator. In determining whether that qualification has been met, the Sheriff shall consider the operator's qualifications, experience, training, and/or certification;

- b.) It appears that the fireworks display will be conducted in a safe location that does not create an unreasonable risk of fire danger;
- c.) That the display will be discharged and fired so that it will not be hazardous to property or persons, and that adequate fallout zones have been designated that are a sufficient distance from the viewing area;
- d.) If the display will be within the boundaries of an existing fire district, that the display has been approved by the fire chief of fire district governing board. It shall be the responsibility of the applicant to provide a letter of approval with the application.
- e.) If the display is not within the boundaries of an approved fire district, the evidence of the availability of services from an adjacent fire district or department has been provided. It shall be the responsibility of the Applicant to obtain a letter of approval from the fire district or department.
- f.) The manner and storage of the fireworks appears to be safe.
- g.) The organization has provided a sufficient bond or proof of liability insurance.

For purposes of conducting reviews of applications, the Sheriff's Office shall retain at least one person on staff who has received training in pyrotechnic displays and is familiar with the requirements and standards for public fireworks displays set forth by the National Fire Protection Association, including Section 1123 and 1124, Code For Fireworks Displays.

E.) Decision on Application

The Sheriff shall complete the investigation at least five days prior to the date of the proposed display. If the Sheriff has determined that the requirements for issuance of a permit have been met, a permit shall be issued by the Emergency Management Director subject to any special conditions determined by the Sheriff to be necessary and appropriate.

F.) Standard Conditions of Permit

All permits for public fireworks displays issued by the Emergency Management Director shall be conditioned on the following:

- a.) That no outdoor fire restrictions or emergency fire restrictions are in effect within the geographic area of the display site on the date and time of the event;

b.) That the fireworks be used and stored by the Applicant in a manner consistent with the standards set forth by the National Fire Protection Association, including Section 1123, Code for Fireworks Display;

c.) That any permit issued shall be valid only for the date stated on the permit and 48 hours following the scheduled date of the display in the event it needs to be rescheduled due to weather or other conditions.

G.) Transfer/Assignability

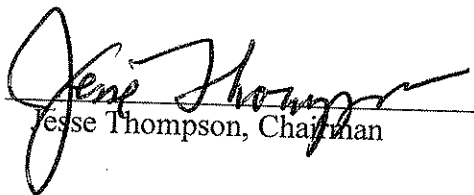
After a permit is granted, the sale, possession, use and distribution of fireworks for the display shall be lawful for that purpose only. Permits issued by the Emergency Management Director pursuant to this Ordinance shall not be transferrable or assignable.

9.) CRIMINAL PENALITIES

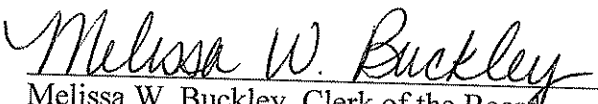
Any person responsible for violating a provision of this ordinance is guilty of a class 3 misdemeanor in accordance with A.R.S. § 36-1608.

SO ORDAINED by the Navajo County Board of Supervisors at Holbrook, Arizona on December 14, 2010.

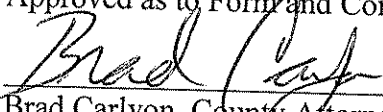
NAVAJO COUNTY BOARD OF SUPERVISORS

By: 
Jesse Thompson, Chairman

ATTEST:


Melissa W. Buckley, Clerk of the Board

Approved as to Form and Content:


Brad Carlyon, County Attorney