

2019-07542

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Requested By: BOARD OF SUPERVISORS

Navajo County Recorder - Doris Clark

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ORDINANCE NO. 02-19**NAVAJO COUNTY FIREWORKS ORDINANCE**

An ordinance of the Board of Supervisors of Navajo County, Arizona, adopting ordinance No. \_\_-19 (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.

Upon the Adoption of this Ordinance, Ordinance 01-17 is hereby repealed.

**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 current “Outdoor Fire Ordinance” 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.”

**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 has established restrictions on outdoor fires or emergency fire restrictions pursuant to current Outdoor Fire Ordinance.

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 Navajo County Board of Supervisors 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 Clerk of the Board of Supervisors on a form prescribed by the Board of Supervisors not more than one-hundred twenty days (120), but not less than sixty (60) days, prior to the date of the proposed display.

### **B.) Bond**

The Application submitted to the Clerk of the Board must be accompanied by a statement that the Applicant is willing to provide a bond in an amount not less than \$500.00, or in such other amount as deemed appropriate by the Board of Supervisors not to exceed one-million (\$1,000,000) dollars. Alternatively, an applicant may provide proof of liability insurance in a 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 to the Clerk of the Board of Supervisors prior to the time of the event shall result in the automatic nullification of the 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**

After receipt of the Application by the Clerk of the Board of Supervisors, all applications for public fireworks displays shall be reviewed by the Navajo County Sheriff pursuant to A.R.S.36-1603, who shall visit and inspect the display area. The Sheriff (or his designee) shall meet with a Fireworks Coordination Group comprised of the following: Sheriff, local fire chief, county emergency manager, facility/property owner, a local pyrotechnic technician, a local business owner and Chamber of Commerce president (or their designee), to obtain input suggestion on the application.

The Sheriff shall either recommend that the Board of Supervisors 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 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.
- e.) The manner and storage of the fireworks appears to be safe.
- f.) The organization has provided a sufficient bond or proof of liability insurance.

For purposes of conducting reviews of applications, the Sheriff's Office and/or the fire district 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, Code for Fireworks Displays.

#### **E.) Decision on Application**

The Sheriff shall complete the investigation within 30 days of receipt of the application. Upon completion of the investigation, the Sheriff shall submit a written recommendation to the Board of Supervisors that either 1) recommends that the Board of Supervisors grant the Application and approve the plan as submitted by the Applicant, 2) recommends that the Board of Supervisors deny the Application, or 3) recommends that the Board of Supervisors approve the Application if the Applicant will agree to modifications of the plan or special conditions upon the permit. If the Board of Supervisor approves the application and places special conditions upon the permit, the applicant shall comply with all special conditions placed upon the permit at least forty-eight hours before the scheduled public fireworks display. If every special condition placed upon the permit is not met before the forty-eight (48) hour deadline, the permit is null and void.

Upon receipt of the Sheriff's report, the Board of Supervisors will conduct a hearing. At the time of the hearing, the Board shall consider the findings of the Sheriff and allow the Applicant an opportunity to be heard. After doing so, the Board shall make a decision on the Application.

**F.) Standard Conditions of Permit**

All permits for public fireworks display issued by the Board of Supervisors shall be conditioned on the following:

- a.) 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;
- b.) 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.
- c.) That the Applicant has provided the County proof of a bond or insurance in the amount required by the Board of Supervisors.

**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 Board of Supervisors pursuant to this Ordinance shall not be transferrable or assignable.

**H.) Validity of Permit**

Permits issued pursuant to this section and prior to any fire restrictions being enacted, remain valid pursuant to the following provisions. If any emergency fire restriction are ordered or in effect, pursuant to the Navajo County Outdoor Fire Ordinance, the Sheriff (or his designee) shall meet with the Fireworks Coordination Group to obtain their input and expertise, to address any public safety concerns regarding the public fireworks display. The Sheriff (or his designee) may withdraw his approval of the permit and application, authorized pursuant to A.R.S. § 36-1603, if the Sheriff (or his designee) believes the public firework display could constitute a hazard to property or endanger any person. If the Sheriff (or his designee) withdraws his approval of the permit and application, pursuant to A.R.S. § 36-1603, the permit is revoked.

The Navajo County Board of Supervisors reserves the right to revoke any permit issued pursuant to the section.

**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 April 23, 2019.

NAVAJO COUNTY BOARD OF SUPERVISORS

By  \_\_\_\_\_  
Dawnafe Whitesinger, Chairwoman

ATTEST:

  
Deputy ~~Melissa Buckley~~ Donna Hurstrom  
Clerk of the Board of Supervisors