

BISHOP PAIUTE TRIBE
TITLE - ILLEGAL FIREWORKS ORDINANCE (No. 2013-05)

ENACTED BY TRIBAL COUNCIL: July 9, 2015

(Effective Date: July 13, 2015)

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Section 1. Purpose

The Bishop Paiute Tribe (Tribe) has a vital interest in maintaining a safe and healthy environment within the exterior boundaries of the Bishop Paiute Reservation (Reservation) not only for its tribal members, but the entire Reservation community, including visitors and guests.

After careful study and evaluation the Bishop Paiute Tribal Council (Tribal Council) as the governing body of the Tribe has determined that in order to protect the health, safety and welfare of the tribal community, there is an urgent need to address the presence of “illegal” fireworks and the unauthorized activation, ignition or detonation of legal fireworks.

It is the purpose of this ordinance to impose penalties on those individuals and entities who do not comply with California State Law (California Health and Safety Code Sections) addressing the regulation of so called fireworks and this Ordinance.

Section 2. Authority

The Bishop Paiute Tribe (“Tribe”), in the exercise of its sovereign authority, hereby establishes the procedures under which the Tribe Court, as a matter of tribal law, shall have jurisdiction to regulate the sale and use of all types of fireworks (illegal and legal) in accordance with the provisions of this

ordinance. Once this Ordinance is adopted by the Bishop Paiute Tribal Council, it shall be within the jurisdiction of the Bishop Paiute Tribal Court. This ordinance shall be known as the Illegal Fireworks Ordinance (No. 2015-19).

Section 3. Definitions

A. A person or entity violates this Ordinance if he/she or It possesses, transports, discharges, sells, or offers for sale any fireworks prohibited by California State Law, Federal Law or this Ordinance.

B. The term “fireworks” means 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, all as defined by California State Law and as presently, or in the future date of this Ordinance, contained within the California Health and Safety Code.

C. “Legal Fireworks” shall mean those fireworks identified as “Safe and Sane” fireworks and stamped with the State of California State Fire Marshall Seal (included as an exhibit within this Ordinance for reference, see Section 15).

D. The term “Illegal Fireworks” shall mean any fireworks not stamped with the State of California State Fire Marshall Seal. See Section 15.

E. The term “Tribal Court” shall mean the Bishop Paiute Tribal Court.

Section 4. Legal Fireworks

The only fireworks that may be possessed, transported, sold or discharged within the exterior boundaries of the Bishop Paiute Reservation are those as referenced in the California Health and Safety Code 12529, which defines "safe and sane" fireworks as any fireworks that have not been classified as "dangerous" or "exempt". These fireworks typically comply with California's fireworks laws.

All "safe and sane" fireworks must display a "State of California, State Fire Marshall Registered Fireworks" seal. See Section 15.

Section 5. Illegal Fireworks

Any fireworks not marked as “Safe and Sane” and displaying a "State of California, State Fire Marshall Registered Fireworks" seal is considered “Illegal Fireworks”. See Section 15.

Examples of “Illegal/dangerous" fireworks include (but are not limited to):

A. fireworks that contain arsenic sulfide or arsenates, most chlorates, magnesium, most phosphorous, zirconium, or many other chemicals,

B. firecrackers, skyrockets, rockets, and sparklers larger than ten inches in length or one-quarter inch in diameter, and

C. any other fireworks that the State Fire Marshall has declared "unsafe for use by any person not specifically qualified or trained in the use of fireworks".

Section 6. Sale of Legal Fireworks

Sale of legal fireworks within the exterior boundaries of the Bishop Paiute Reservation are governed by the following:

- A. The sale of legal fireworks within the exterior boundaries of the Bishop Paiute Reservation is authorized only by an individual, organization or business entity that has purchased a permit from the Bishop Paiute Tribe.
- B. The purchase of the fireworks permit shall be **mandatory**.
- C. A fireworks permit shall be issued upon payment to the Bishop Paiute Tribe.
- D. A deposit may be required at the time of the purchase of a fireworks permit. The deposit will be refunded upon a showing the immediate area of the fireworks sales has been satisfactorily restored to its prior condition.

Section 7. Violation of Ordinance

A. Legal fireworks can only be sold between June 28th and July 6th. Any other time legal fireworks are sold aside from stated timeframe will be considered a violation of this Ordinance.

B. Legal fireworks shall only be ignited from 11:00 a.m. to 10:00 p.m. during the given timeframe of June 28th through July 6th. Any other time fireworks are ignited shall be a violation of this Ordinance. The Bishop Tribal Council may modify the dates and times of this Ordinance, as necessary, for the safety of the tribal community from time to time.

C. An individual, entity or organization that violates this Ordinance shall be issued a citation by Bishop Paiute Tribal Police (Tribal Police) or any other duly authorized Tribal Official.

D. The Tribal Court Clerk shall, upon receipt of the Citation, mail a notice of the court hearing including the date, time and location to the address as set out in the Citation.

E. Any individual residing on the Bishop Paiute Reservation may, upon his/her own accord, also file a complaint directly with the Tribal Court Clerk for violations of this Ordinance, absent Tribal Police or duly authorized Tribal Official.

Section 8. Tribal Court Hearing

A. At the hearing, all parties will be allowed to present their case.

B. In the event that the Tribal Court determines the individual/entity was not in violation of this Ordinance, the Citation shall be dismissed.

C. In the event that the Tribal Court determines that there was justification for issuance of the Citation, the Tribal Court shall enter a penalty order accordingly, and assess the penalties as provided in Section 9.

Section 11. Appeals

The right of appeal shall be governed by the Bishop Paiute Tribal Court of Appeals.

Section 12. Sovereign Immunity

Nothing in this Ordinance is a waiver of the sovereign immunity of the Tribe or the Tribal Council or any official, agent, or employee of the Tribe while acting in his or her official capacity. The employees and appointees of the Tribe, agents, the members of the Tribal Council, and the personnel of the Tribal Court are cloaked with the sovereign immunity of the Tribe. No individual named above shall be liable for his or her acts or failure to act under this Ordinance while acting in their lawful official capacity.

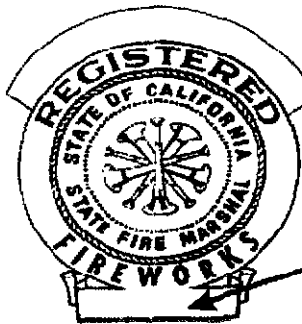
Section 13. Amendments

This Ordinance and any procedures promulgated hereunder may be amended or rescinded by the Tribal Council at a duly called regular or special meeting.

Section 14. Effective Date

This Ordinance shall become effective upon the date of its approval or any date specified by the Bishop Paiute Tribal Council.

Section 15. Exhibit



IF AN ITEM DOES NOT BEAR THIS SEAL, IT IS ILLEGAL!

TYPE OF FIREWORKS

CSFM REGISTRATION

Legislative History:

6/17/13
7/9/15

Ordinance reviewed for Public Hearing.
Enacted as Illegal Fireworks Ordinance by Tribal Resolution No. 2015-19.