

**SAGINAW CHIPPEWA INDIAN TRIBE  
ORDINANCE 24  
FIREWORKS ORDINANCE**

**Section 1. Findings.**

There is a continuing serious risk of improper sale, storage for sale and use of fireworks on land within the Isabella Reservation of the Saginaw Chippewa Indian Tribe (hereafter, "Tribe"). Such risk imperils the health and welfare of the Tribe, its members, and nonmembers. The purpose of this Ordinance is to minimize this risk, while allowing limited sale of fireworks within the Tribe's Isabella Reservation.

**Section 2. Prohibition of Sale or Storage for Sale Without a Permit.**

No person may sell or transfer, or offer to sell or transfer, or store for sale or transfer, "fireworks" as defined under Michigan Penal Code M.C.L. 750.243a. within the Tribe's Isabella Reservation a) on land owned by the Tribe or b) on land owned by the United States in trust for either the Tribe or a Tribal member or c) by a Tribal member in fee, unless such person has a Tribal Fireworks Permit issued by the Chief Executive Officer of the Tribal Migizi Economic Development Company, (hereafter, "CEO") Current approvals for the sale or storage for sale of fireworks issued by the Saginaw Chippewa Tribal Council (hereafter, "Tribal Council") pursuant to Tribal Council Resolution 05-167 shall be recognized as valid permits under this Ordinance through August 31, 2006. After August 31, 2006 all such approvals issued under Resolution 05-167 shall be deemed expired.

**Section 3. Tribal Fireworks Permit.**

Tribal members may apply for a Tribal Fireworks Permit by submitting a written request for such Permit to the (CEO). The application shall state the location of the property where fireworks will be sold and stored, and shall state who will be authorized to sell the fireworks. The CEO may require such additional information as he or she deems necessary to act on the application. If the CEO finds that the applicant is of good character, has complied with all applicable laws, and will be able to sell or store for sale fireworks in a safe and suitable manner, the CEO may issue a Tribal Fireworks Permit. Such Tribal Fireworks Permit shall be limited to a single named location that is formally approved by Tribal Council for the sale of fireworks and containing such limitations as required by law or as the CEO deems appropriate. Fireworks Permits shall not be effective for a period of more than six (6) months. The Tribal Council or the CEO may rescind the Permit upon a finding that if the holder of the Permit has violated, or has allowed violation of, federal or Tribal law or has in anyway endangered the community through his or her sale or storage for sale of fireworks. The CEO shall not issue more than eight Tribal Fireworks Permits to be effective during any one period.

**Section 4. Penalties.**

Any person who sells or stores for sale fireworks or who leases Tribal land and allows the sale or storage for sale of fireworks on such Tribal leased land in violation of this Ordinance shall be subject to a civil penalty of not less than \$2,000 and not more than \$5,000 a day for each violation. As provided in this Ordinance, fireworks stored in violation of this Ordinance shall also be subject to seizure, forfeiture, and destruction.

**Section 5. Enforcement.**

Saginaw Chippewa Tribe law enforcement officers shall enforce the provisions of this Ordinance. A law enforcement officer shall have the authority to enter property subject to this Ordinance for the purpose of determining whether there is a violation upon a showing of probable cause of such violation and the issuance of a proper administrative warrant, when necessary, by the Tribal Court.

**Section 6. Right of Entry; Administrative Search Warrants.**

The Saginaw Chippewa Tribe law enforcement officers may apply to a Tribal Court Judge for an administrative search warrant to enter any premises or property subject to this Ordinance to conduct any inspection required or authorized by law to determine compliance with the provisions of this Ordinance.

A. The application for an administrative search warrant shall be in writing and sworn to by the applicant and shall particularly describe the place, structure, premises, etc. to be inspected and the nature, scope and purpose for the inspection to be performed by the applicant.

B. A Judge of the Tribal Court may issue the administrative warrant on finding that:

(1) The applicant has sought voluntary access to the property for the purpose of making an inspection; and

(i) after requesting , at a reasonable time, the owner, tenant, lessee or other individual in charge of the property to allow access, has been denied access to the property; or

(ii) after making a reasonable effort the applicant has been unable to locate any of these individuals.

(2) The requirements of subsection A of this section are met; and

(3) The Tribal law enforcement officer is authorized by law to make an inspection of the property for which the warrant is sought, and

(4) Probable cause for the issuance of the warrant has been demonstrated by the applicant by specific evidence of an existing violation of any provision of this Ordinance.

C. An administrative search warrant issued under this section shall specify the place, structure, or premise to be inspected. The inspection conducted may not exceed the limits specified in the warrant.

D. An administrative search warrant issued pursuant to this section authorizes the applicant and other Saginaw Chippewa Tribal police officers to enter specified property to perform the inspection to determine compliance with the provisions of this Ordinance.

E. A search warrant shall be served by any duly authorized Tribal police officer during any time of the day or night unless the court finds sufficient reason to limit the time and manner in which the warrant may be served and so endorses the warrant.

F. Upon the issuance of the warrant the Tribal police officer may break open any building, structure, or container after reasonably identifying himself and his authority, requesting entry or access from the occupant, if any, and being refused such entry or access.

G. A search warrant must be executed and returned within seven (7) days to the Court. After the expiration of such time the warrant, unless the time is extended in the discretion of the Court by endorsement, is void.

#### **Section 7. Jurisdiction and Process.**

The Tribal Court shall have jurisdiction to adjudicate violations of this Ordinance. If a law enforcement officer determines that a person is or has violated this Ordinance, the officer shall issue a civil citation. A copy of such citation shall be filed promptly with the Tribal Court and the Secretary of the Tribal Council, and the citation shall constitute the Complaint in Tribal Court. The Tribal Legal Department shall be responsible for serving and prosecuting the Complaint in the same manner as civil actions generally and the Tribal General Counsel may assign such cases to the Tribal Prosecutor if necessary. All court proceedings related to such citation shall be before the judge without a jury.

#### **Section 8. Seizure and Forfeiture.**

If a Tribal law enforcement officer issues a citation for violation of this Ordinance, the officer may seize all fireworks stored on the related property. Seized fireworks shall be handled, stored, and maintained by the Law Enforcement Department held in a secure location - consistent with

the Department's procedures for handling evidence. If the Tribal Court determines that a violation of the Ordinance occurred, the fireworks seized in conjunction with the violation shall be forfeited to the Tribe and destroyed by the Law Enforcement Department.

**Section 9. Signs.**

A person who is issued a Tribal Fireworks Permit or who has a current approval by Council under Resolution 05-167 may post up to three signs within the Isabella Reservation relating to the sale of fireworks authorized by the Permit; provided that no sign shall interfere with the reading of or otherwise obstruct another authorized sign; and provided that no sign shall contain disparaging or demeaning language regarding any named business, person or location authorized by Permit to sell or store for sale under this Ordinance. Signs permitted under this Ordinance shall be no larger than four feet in width and four feet in height and shall not extend more than two feet from the bottom of the sign to the ground. Any sign relating to the sale of fireworks that is not authorized by a Tribal Fireworks Permit or does not conform to the requirements of this Ordinance shall be considered a public nuisance and may be removed by a Tribal law enforcement officer or such other person as authorized by the Tribal Council.

**Section 10. Effective Date.**

This Ordinance shall become effective immediately.

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LEGISLATIVE HISTORY

Ordinance 24-Fireworks Ordinance enacted June 28, 2006 by Resolution 06-109; Amended July 3, 2006 by Resolution 06-111; Section 3 amended May 23, 2007 by Resolution 07-096; Section 3 and 4 amended by Resolution 09-084 approved June 8, 2009