

Flandreau Santee Sioux Tribe

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RESOLUTION NO. 07-42

WHEREAS, the Flandreau Santee Sioux Tribe is a recognized Indian tribe organized pursuant to a Constitution and By-laws approved by the Secretary of the Interior and Commissioner of Indian Affairs on April 24, 1936, amended February 7, 1941, and further amended November 16, 1967, and further amended November 14, 1984, and further amended May 17, 1997, and

WHEREAS, Article III of said Constitution and By-laws provides that the governing body of the Tribe shall be the Executive Committee, and

WHEREAS, the Flandreau Santee Sioux Tribe (FSST) Executive Committee deems it necessary to update Title 14 Fireworks for the benefit of the Tribe and its Members.

NOW THEREFORE, Title 14, as enacted by Resolution 87-08, 1988, is hereby repealed and new Title 14 enacted; to wit:

TITLE 14

FIREWORKS

Chapter 14

14-01-01 Definition of terms. As used in this Chapter, unless the context otherwise requires:

- (1) Class C (common fireworks means fireworks designed primarily to produce visible effects by combustion, that must comply with the construction, chemical composition and labeling regulations promulgated by the U.S. Consumer Product Safety Commission. Class C (common) fireworks are defined by the U.S. Department of Transportation.
- (2) Retailer includes every person engaged in the business of making sales of fireworks at retail.

(3) Retail sales means the sale of fireworks to any person not licensed to sell fireworks or for any purpose other than for resale.

(4) Sale means any transfer, exchange, or barter, conditional or otherwise, in any manner or by any means whatsoever, for a consideration.

(5) Wholesaler means any person engaged in the business of making sales of fireworks to retailers for resale to consumers.

14-01-02 License required for sale of fireworks -- application -- fee -- duration -- display. No person may sell, hold for sale, or offer for sale, as wholesaler or retailer any fireworks on the Flandreau Santee Sioux Tribal Reservation unless such person has first obtained a license as a wholesaler or retailer. The wholesaler or retailer shall obtain permission from the Flandreau Santee Sioux tribal Council and pay a fee of \$25.00 before authorization will be granted to sell fireworks on the Reservation, together with obtaining a sales tax license from the FSST Tax Commission.

14-01-03. Minimum age for sale or dispensing of fireworks. No person under the age of eighteen (18) years shall be licensed under this Chapter and no licensee shall employ or permit any individual under the age of eighteen (18) to sell, dispense, or offer for sale, within the boundaries of the Flandreau Santee Sioux Tribal Reservation, any permissible fireworks enumerated in this Chapter.

14-01-04. Prohibited firecrackers -- manufacture or use as misdemeanor. Any person who manufactures, uses or disposes to another, with or without consideration, so as to endanger the safety of others, any firecrackers more than one and one-half (1-1/2) inches long or made wholly or in part of dynamite, nitroglycerin, or giant powder, is guilty of a Class 1 Misdemeanor.

14-01-05. Possession, sale or use of unauthorized fireworks unlawful. No person shall possess, sell, offer for sale, bring onto the Flandreau Santee Sioux Tribal Reservation, or discharge any pyrotechnics commonly known as fireworks, other than permissible fireworks.

14-01-06. Permissible fireworks enumerated and described. Permissible fireworks includes:

(1) Roman candles, not exceeding ten balls spaced uniformly in the tube, total pyrotechnic composition not to exceed twenty grams each in weight, The inside tube diameter may not exceed three-eighths inch.

(2) Skyrockets with sticks, total pyrotechnic composition not to exceed twenty grams each in weight. The inside tube diameter may not

exceed one-half (1/2) inch. The rocket sticks shall be securely fastened to the tubes.

(3) Helicopter type rockets, total pyrotechnic composition not to exceed twenty (20) grams each in weight. The tube diameter shall not exceed one-half (1/2) inch.

(4) Cylindrical fountains, total pyrotechnic composition not to exceed seventy-five (75) grams each in weight. The inside tube diameter may not exceed three-fourths inch.

(5) Cone fountains, total pyrotechnic composition not to exceed fifty (50) grams each in weight.

(6) Wheels, total pyrotechnic composition not to exceed sixty (60) grams for each driver unit or two hundred and forty grams for each complete wheel. The inside tube diameter of driver units may not exceed one-half (1/2) inch.

(7) Illuminating torches and colored fire, in any form, except items in subdivision (12 below), total pyrotechnic composition not to exceed one hundred grams each in weight.

(8) Sparklers and dipped sticks, total pyrotechnic composition not to exceed one hundred (100) grams each in weight. Pyrotechnic composition containing any chlorate or perchlorate may not exceed five (5) grams.

(9) Mines and shells of which the mortar is an integral part, total pyrotechnic composition not to exceed forty (40) grams each in weight.

(10) Firecrackers and salutes with casings, the external dimensions of which do not exceed one and one-half (1-1/2) inches in length and one-quarter (1/4) inch in diameter, total pyrotechnic composition not to exceed two grains in weight.

(11) Combinations consisting of two or more devices enumerated in this section.

(12) Novelties and trick noisemakers, to include glow worm snakes, trick matches, and cigarette loads.

(13) All Class C (common) fireworks unless specifically prohibited by this Chapter.

14-01-07.

Exemptions from Chapter. Nothing in this Chapter shall be construed as applying to toy paper caps containing not more than twenty-five

hundredths of a grain of explosive composition per cap, nor applying to the military forces of the United States or Employees of this Tribe, or to peace officers, nor as prohibiting the sale or use of blank cartridges for ceremonial, or theatrical or athletic events.

14-01-08. Importation by unlicensed persons prohibited retailer to purchase from licensed wholesaler. No person who is unlicensed as a wholesaler or retailer shall bring any fireworks onto the Flandreau Santee Sioux Tribal Reservation. No retailer shall sell any fireworks which have not been purchased from a wholesaler licensed under the provisions of this Chapter.

14-01-09. Period and times during which retail sales permitted. No person, firm, or corporation may offer fireworks for sale to individuals at retail before the twenty-seventh (27th) day of June and after the fifth (5th) day of July. However, any person obtaining a special three hundred sixty-five (365) day retail licenses may sell fireworks to non-Tribal members for the periods of time so specified. Retail sales are not permitted after twelve o'clock (12:00) a.m. or prior to seven o'clock (7:00) a.m.

14-01-10 Sale from vehicle prohibited. No retailer shall sell fireworks from any motor vehicle on the Flandreau Santee Sioux Tribal Reservation.

14-01-11. Exits from structures where fireworks sold. All buildings or structures wherein fireworks are sold at retail shall have at least two (2) separate door exits.

14-01-12. "NO SMOKING" signs where fireworks sold. Signs must be prominently posted on all displays of fireworks offered for sale at retail, which shall read in red letters not less than three (3) inches in height. "NO SMOKING WITHIN TWENTY-FIVE FEET".

14-01-13. Minimum distance for igniting of fireworks. In all buildings or structures wherein fireworks are being offered for sale the licensee shall have a sign prominently posted stating that no fireworks can be ignited or discharged within one hundred fifty (150) feet of the licensee's premises.

14-01-14. Open flame prohibited where fireworks sold – fire extinguisher required. No licensee may have on his premises any device, apparatus, receptacle, or burner from which an open flame is emitted including, but not limited to any type of outdoor grill. Each licensee shall in the conduct of his/her business of selling fireworks keep and maintain upon the premises a fire extinguisher bearing an Underwriter Laboratories, Inc. rated capacity of at least 2-A.

14-01-15. Public display of fireworks. Nothing in this Chapter may prohibit the use of public display of fireworks at any time. However, any individual,

group of individuals, association, firm, partnership, or corporation, before making such public display of fireworks shall secure a written permit from the Tribal Council, and shall have purchased fireworks for the display from a licensed wholesaler under this Chapter.

14-01-16. Violation of Chapter as Misdemeanor. Except where a punishment is specifically provided, a violation of the provisions of this Chapter is a Class 1 Misdemeanor.

14-01-17. Subsequent conviction as ground for revocation or suspension of license. If a person is found guilty of violating any of the provisions of this Chapter at subsequent time, such violation may constitute cause for revocation or suspension of the license held by that person and for refusal to renew license upon expiration thereof.

14-01-18. Possession of unauthorized fireworks unlawful – seizure and destruction. No person shall possess any fireworks, other than those enumerated in Section 14-01-06 of this Chapter. If any person shall have in his possession any fireworks in violation of said section, a warrant may be issued for the seizure of such fireworks, and such fireworks shall be safely kept to be used as evidence. Upon conviction of the offender, the fireworks shall be destroyed, but if the offender is discharged, the fireworks shall be returned to the person in whose possession they were found, provided, however, that nothing in this Chapter shall apply to the transportation of fireworks by regulated carriers.

14-01-19. Period during which discharge of fireworks permitted – violation as Misdemeanor. Except as otherwise provided in this Chapter, it is unlawful for a person to discharge fireworks on the Flandreau Santee Sioux Tribal Reservation after the fifth (5th) day of July or prior to the twenty-seventh (27th) day of June, except New Years Eve. It is also unlawful to discharge fireworks on the Reservation prior to the hour of ten o'clock (10:00) a.m. and after the hour of ten o'clock (10:00) p.m., except for July 4th, which shall be 12:00 o'clock midnight. A violation of this section is a Class 2 Misdemeanor and fireworks of the violator(s) will be confiscated by law enforcement officers.

14-01-20. Enforcement by the Tribe and law enforcement officers. The Tribe, together with all law enforcement officers of this Tribe, shall be charged with the enforcement of the provisions of this Chapter.

14-01-21. Punishments and fine. Except as otherwise provided in this Chapter, a person(s) found guilty of violating any section of this Chapter will be subject to the following:

- (1) Class I Misdemeanor violation – six (6) months in jail, \$500.00 fine, or both.

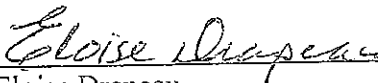
(2) Class 2 Misdemeanor violation – thirty (30) days in jail, \$100.00 fine, or both; and

(3) All fireworks found at the crime scene will be confiscated.

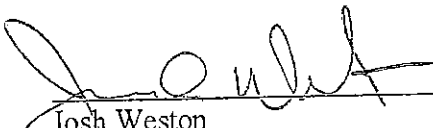
TITLE 14 WAS ADOPTED BY THE TRIBAL COUNCIL ON MAY ____, 2007 AS:
TRIBAL ORDINANCE NO. 07-_____.

CERTIFICATION

The foregoing Resolution was duly enacted and adopted on this 30 day of May, 2007 by the Flandreau Santee Sioux Executive Committee at which a quorum was present by a vote of 4 for, 0 against, 1 not voting. 2 absent



Eloise Drapeau
Tribal Secretary



Josh Weston
Tribal President