



MEMORANDUM

Date: September 12, 2023

To: The Honorable Chair and Members
Pima County Board of Supervisors

From: Jan Leshner
County Administrator

A handwritten signature in blue ink, appearing to read "Jan Leshner", is written over the printed name and title.

Re: **Additional Information for the September 19, 2023 Board of Supervisors Meeting**
- Westin La Paloma's July 4, 2023 Fireworks Display

The Board of Supervisors will discuss at its meeting of September 19, 2023 a fire that occurred following a July 4th fireworks display. The following provides an overview of the current policies and procedures that regulate fireworks displays in Pima County and examples of how the County has responded to requests for fireworks permits during particular dry years.

Regulation of Fireworks Displays

The authority to regulate fireworks displays in Pima County is found in the Pima County Code, 9.04, which is known as the Pima County Fireworks Ordinance. The Ordinance is designed to protect the general public from the hazardous use, sale and display of fireworks and to require competent operators in the display of fireworks.

Section 9.04.050 Permit for Public Display notes that before a permit is granted, the operator, location and handling of the display shall be approved by the Board of Supervisors after investigation and approval by the sheriff.

9.04.050 Permit for public display.

- A. Application for a permit shall be made in writing not less than forty-five days prior to the date of the display. Every display shall be handled by a pyrotechnic operator, and shall be of a character and located discharged [sic] and fired so that it will not be hazardous to property or endanger any person. Before a permit is granted, the operator, location and handling of the display shall be approved by the board of supervisors after investigation and approval by the sheriff. After a permit is granted, the sale, possession, use and distribution of fireworks for the display shall be lawful for that purpose only. No permit is transferable or assignable and will be void if transferred or assigned.
- B. If a community, organization or group authorized under this section to obtain a permit for public display of fireworks desires a permit for a locality more than fifty miles from the county seat and not within the limits of an incorporated city

or town, application may be made to the justice of the peace of the precinct in which that locality is situated. The justice may issue the permit, subject to the conditions prescribed by this section, in the same manner as the board of supervisors. The constable shall make the prescribed investigation. The justice of the peace shall promptly report to the board of supervisors any permit issued by him pursuant to this subsection and shall transmit the bond of the applicant to the board.

In addition, Section 9.04.060 delineates the financial requirements of the applicant, which are:

- A. The board of supervisors shall require each applicant to give a satisfactory bond in a principal amount not less than five hundred dollars, conditioned upon payment of all damages which may be caused to persons or property by reason of the display.
- B. Each applicant shall be required to hold harmless the county for any and all damages or injury occurring as a result of the possession, use or display of fireworks, and each permittee shall defend all actions brought against the county with relation to the permit for fireworks, and shall pay all judgments against the county in relation to the permit and shall appeal at the option of the county all judgments against the county resulting from the granting of the permit.

Section 9.04.080 outlines how fireworks displays are to be conducted. This section states:

- A. No permit shall be granted for any display of fireworks where the discharge, failure to fire, faulty firing, or fallout of any fireworks or other objects would endanger persons, buildings, structures, forests, or brush, nor in any case where the point at which the fireworks are to be fired is less than two hundred feet from the nearest permanent building, public highway, railroad, or other means of travel, or fifty feet from the nearest above ground telephone or telegraph line, tree or other overhead obstruction, or one hundred feet from a high-tension wire. In no case shall a display be fired within five hundred feet of a school, theater, church, hospital, or similar institution without written approval by the institution and special approval by the board of supervisors.
- B. Spectators at a display of fireworks shall be restrained behind lines or barriers as designated by local authorities but in no case less than two hundred feet from the point at which the fireworks are to be discharged. Only authorized persons and those in actual charge of the display shall be allowed inside these lines or barriers during the unloading, preparation, firing and clean-up period of fireworks.
- C. All fireworks that fire a projectile shall be so set up that the projectile will go into the air as nearly as possible in a vertical direction.

- D. Any fireworks that remain unfired after the display is concluded shall be immediately disposed of or removed in a manner safe for the particular type of fireworks. The debris from the discharged fireworks shall be properly disposed of by the operator before he leaves the premises. The operator, upon conclusion of the display, shall make a complete and thorough search for any unfired fireworks or pieces which have failed to fire or function and shall dispose of them in a safe manner. Such search shall be instituted at the earliest possible time following the conclusion of the display but in no event later than the first period of daylight which follows.
- E. No fireworks display shall be held during any storm or wind in which the wind reaches a velocity of more than ten miles per hour.
- F. All fireworks, articles and items at places of display shall be stored in a manner and in a place secure from fire, accidental discharge, and theft or other potential hazards, and in a manner approved by the governmental agency having jurisdiction.

The Fireworks Displays Permit Applications Process

The Office of the Clerk of the Board receives and processes applications for fireworks display permits. The process is as follows:

- A fireworks permit application (Attachment 1) is received in the Clerk of the Board's Office (Office).
- Submission Requirements are verified by the Office.
 - Events must be in unincorporated Pima County
 - Application should include Fireworks Inspection Form (to be filled out by Pima County Sheriff's Bomb squad when they go out to perform inspection), copy of bond/certified check or certificate of liability insurance, evidence that all persons participating in the display have received training, written aerial shot sheet and site plan diagram.
- Once verified, packet is sent to Pima County Sheriff's Department, Regional Bomb Squad to conduct an onsite inspection and approve site for fireworks display.
- Once approval is received, hearing date is set.
- Upon approval by Board, approval packet is sent to Applicant.

Attached (Attachment 2) is a sample of the approval letter that is sent to Applicant by the Office. As stated in approval letter, requirements for fireworks even are detailed in the Pima Regional Bomb Squad Fireworks Inspection Form, which is attached to the Permit for Fireworks Display.

The Honorable Chair and Members, Pima County Board of Supervisors
Re: **Additional Information for the September 19, 2023 Board of Supervisors Meeting**
- **Westin La Paloma's July 4, 2023 Fireworks Display**
September 12, 2023
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The Applicant is informed that should a fire emergency be declared, they are required to adhere to any restrictions declared. At the time of the event, the fire district and/or responsible fire prevention provider may determine that storm or wind conditions are too dangerous to conduct the display. The Applicant is also informed to notify the Clerk's Office in writing of any reports made to law enforcement agencies in association with their approved fireworks permit, after the event.

During the fireworks display event, the Applicant should be in contact with their fire department that is scheduled for standby, which is included on the Bomb Squad fireworks inspection form. Each Applicant must list the fire department scheduled on standby or the fire agency and a point of contact.

Temporary Bans on Fireworks Displays

There have been years in which Pima County temporarily banned fireworks displays in unincorporated Pima County. As an example, on June 21, 2011 the Pima County Board of Supervisors unanimously adopted a resolution declaring an emergency and banning permissible consumer fireworks on unincorporated areas of Pima County, citing extreme risk of fire, the unprecedented dry conditions and the fact that fireworks will only serve to exacerbate already dangerous conditions.

The ban had the desired effect of preventing harm to the lives and property of the people of Pima County, in that no fires or injuries in the unincorporated areas of Pima County due to permissible consumer fireworks were reported to the Office of Emergency Management and Homeland Security (OEM). The Pima County Sheriff's Department strictly enforced the County ban and a total of eight incidents in which people were arrested and/or cited for violation of the fireworks ban were reported.

On July 5, 2011, OEM reached out to the fire service organizations within the county to obtain the benefit of their comments regarding the advisability of lifting the fireworks ban imposed by the Board of Supervisors. All of the respondents indicated that the fire danger had lessened, but advised caution with respect to the use of fireworks and fire.

Staff then consulted with the Forest Service and the Arizona State Forestry Division (AFSD). It is the US Forest Service and the AFSD that monitor conditions throughout the State to determine the risk to the life and property of Arizonans from fire danger. Once these organizations recommended a lifting of the ban due to precipitation and favorable weather conditions, the County Administrator lifted the ban using the authority specifically granted in the enabling resolution staff recommended the lifting of the ban.

In 2012, a similar resolution declared the existence of a fire emergency in unincorporated Pima County to minimize the risk of wildfires throughout the jurisdiction stemming from extremely high fuel loads and the fact that firefighting resources throughout the West were already strained due to fires of historic proportions that were occurring in Northern Arizona,

Colorado and New Mexico. The ban was in place from June 5, 2012 through July 16, 2012, at which time increased rainfall and the prediction of a wetter than normal July abated the extreme fire conditions.

Again, in May 2014 the Board of Supervisors along with federal, state and local jurisdictions prohibited the use of permissible consumer fireworks in Pima County for a period the extreme fire conditions were abated.

Conclusion

An overview of the current process to obtain a fireworks display permit is described above. Also summarized are the actions taken historically to ban fireworks in years in which weather conditions would make such displays unsafe. These steps can be modified following direction and guidance provided by the Board of Supervisors.

JKL/anc

Attachments

c: Carmine DeBonis, Jr., Deputy County Administrator
Francisco García, MD, MPH, Deputy County Administrator & Chief Medical Officer
Steve Holmes, Deputy County Administrator
Shane Clark, Director, Office of Emergency Management
Melissa Manriquez, Clerk of the Board

ATTACHMENT 1



Katrina Martinez
Deputy Clerk

Pima County Clerk of the Board

Melissa Manriquez

Administration Division
33 N. Stone Avenue, Suite 100
Tucson, AZ 85701
Phone: (520)724-8449 • Fax: (520) 222-0448

Management of Information & Records Division
1640 East Benson Highway
Tucson, Arizona 85714
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PIMA COUNTY APPLICATION FOR FIREWORKS DISPLAY INSPECTION/PERMIT

Persons applying for a fireworks display permit in Pima County are required to undergo a display site inspection conducted by the Pima Regional Bomb Squad. This inspection is used to make a recommendation to the Board of Supervisors regarding the approval or denial of your permit. Inspectors will be checking for compliance with Pima County Code 9.04 and the National Fire Protection Association Code 1123: Code for Fireworks Display. The local fire district and or the state fire marshal may conduct an independent inspection which has the authority to override permit approval.

NOTE: The Display Operator and Site Manager should be selected as individuals with authority to supervise the event. These parties must be willing to accept civil/criminal responsibility for assuring compliance with provisions and safety regarding this display. A violation of Pima County Code 9.04 is a class 3 misdemeanor.

ORGANIZATION/APPLICANT: _____

MAILING ADDRESS: _____

LOCATION/ADDRESS OF DISPLAY: _____

SITE MANAGER: _____

CONTACT INFO: Email: _____ Phone #: _____

DATE AND TIME OF DISPLAY: _____

ALTERNATE DISPLAY DATE(s)/TIME* _____

*(Alternate display date(s) must be within 7 days of the date selected above)

PRODUCTION COMPANY: _____

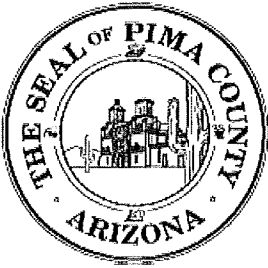
DISPLAY OPERATOR: _____

CONTACT INFO: Email: _____ Phone #: _____

Submit this completed application to the **Pima County Clerk of the Board** with the following:

- ☐ *Pima County Permit for Fireworks Display* form completed with organization/display information
- ☐ Written shot sheet including display list and mortar diameters
- ☐ Site plan diagram including dimensions of display, location of discharge site, spectator area, parking area, fall-out area and associated distances per NFPA 1123 5.1.2.2.
- ☐ Evidence that all persons participating in the display have received training as required under NFPA 1123 8.1.3.3
- ☐ Evidence of insurance/bonding (Alternative display date(s) requested above must be listed on the Certificate of Liability Insurance.)

A Pima Regional Bomb Squad representative will contact you to schedule a site inspection.



PIMA COUNTY PERMIT FOR FIREWORKS DISPLAY

ORGANIZATION: _____

ADDRESS: _____

LOCATION OF DISPLAY: _____

DATE AND TIME OF DISPLAY: _____

PRODUCTION COMPANY: _____

Pursuant to Pima County Code 9.04.050, the Pima County Sheriff's Department has conducted a site inspection and recommends approval of the Permit for Fireworks Display. Conformance to the provisions on the attached *Pima County Fireworks Inspection Form* is required.

Pima County Sheriff

=====

The Pima County Board of Supervisors approves the Permit for Fireworks Display for the location, date and time specified above. In the event a fire emergency is declared, adherence to any restriction(s) set forth in that declaration is required.

Dated this _____ day of _____, 20____.

Chair, Pima County Board of Supervisors

ATTEST

CLERK OF THE BOARD

This permit is not transferable or assignable, must have the executed *Pima County Fireworks Inspection Form* attached and must be available for inspection prior to, during and after the fireworks display.



PIMA REGIONAL BOMB SQUAD

Pima County Sheriff's Department

1750 E Benson Highway, Tucson, AZ 85714

"Leadership Through Teamwork"



PIMA COUNTY FIREWORKS INSPECTION FORM

This inspection is being conducted pursuant to Pima County Code (PCC) 09.04.050. Its purpose is to assure compliance with NFPA 1123 and PCC 09.04.080. No permit will be recommended for approval unless the display meets the requirements of both standards; a person violating these provisions is guilty of a class three misdemeanor. The "Site Representative" and "Operator's Representative" signing this document assume criminal and civil responsibility for compliance with these provisions.

- | YES | NO | DATE OF INSPECTION: _____ |
|--------------------------|--------------------------|--|
| <input type="checkbox"/> | <input type="checkbox"/> | Launch site is more than (200') two hundred feet from the nearest permanent building, public highway, railroad, or other means of travel. Building is defined as a facility intended for occupancy or inhabitation. (09.04.080) |
| <input type="checkbox"/> | <input type="checkbox"/> | Site plan submitted to inspecting authority (NFPA 1123 5.1.2.1) |
| <input type="checkbox"/> | <input type="checkbox"/> | Site Plan includes dimensions of display, location of discharge site, spectator area, parking area, fall-out area, and associated distances (Attach Site Plan) (NFPA 1123 5.1.2.2) |
| <input type="checkbox"/> | <input type="checkbox"/> | Minimum radius of display site equals 70 feet per inch shell diameter (NFPA 1123 5.1.3.1) |
| <input type="checkbox"/> | <input type="checkbox"/> | Distance exemption required Reason: _____ (NFPA 1123 5.1.4.6) |
| <input type="checkbox"/> | <input type="checkbox"/> | Launch site is more than (50') fifty feet from the nearest above ground telephone or telegraph line, tree or other overhead obstruction, or one hundred feet from a high-tension wire (09.04.080) |
| <input type="checkbox"/> | <input type="checkbox"/> | Launch site is more than five hundred feet from a school, theater, church, hospital, or similar institution (09.04.080) |
| <input type="checkbox"/> | <input type="checkbox"/> | Spectator site is more than (200') two hundred feet from the point at which the fireworks are to be discharged (09.04.080) |
| <input type="checkbox"/> | <input type="checkbox"/> | Only authorized persons and those in actual charge of the display shall be allowed inside these lines or barriers during the unloading, preparation, firing and clean-up period of fireworks (09.04.080) |
| <input type="checkbox"/> | <input type="checkbox"/> | Mortar rack set to be designed at as near vertical as possible (09.04.080) |
| <input type="checkbox"/> | <input type="checkbox"/> | Fireworks display will be stopped during any storm or wind in which the wind reaches a velocity of more than ten miles per hour (09.04.080) |
| <input type="checkbox"/> | <input type="checkbox"/> | All fireworks, articles and items at places of display shall be stored in a manner and in a place secure from fire, accidental discharge, and theft or other potential hazards, and in a manner approved by the governmental agency having jurisdiction. Storage method: _____ (09.04.080) |
| <input type="checkbox"/> | <input type="checkbox"/> | Any fireworks that remain unfired after the display is concluded shall be immediately disposed of or removed in a manner safe for the particular type of fireworks (09.04.080) |
| <input type="checkbox"/> | <input type="checkbox"/> | Debris from the discharged fireworks will be properly disposed of by the operator before operator leaves the premises (09.04.080) |
| <input type="checkbox"/> | <input type="checkbox"/> | Upon conclusion of the display the operator shall make a complete and thorough search for any unfired fireworks or pieces which have failed to fire or function and shall dispose of them in a safe manner and contact the bomb squad for assistance if necessary (09.04.080) |
| <input type="checkbox"/> | <input type="checkbox"/> | Fire department scheduled for standby. Fire agency and POC: _____ (NFPA 1123 8.1.1) |
| <input type="checkbox"/> | <input type="checkbox"/> | Evidence of all site crew meeting NFPA training requirements provided (NFPA 1123 8.1.3.3) |
| <input type="checkbox"/> | <input type="checkbox"/> | Display site meets crowd control requirements including the use of ropes, boundary lines and/or spotters (NFPA 1123 8.1.2) |
| <input type="checkbox"/> | <input type="checkbox"/> | Operator will conduct display in compliance with the provisions set forth in NFPA 1123 and Pima County Code 9.04 |
| <input type="checkbox"/> | <input type="checkbox"/> | Permit approved by Sheriff's Department(09.04.050) |

Inspector _____

Site Representative _____

Operator's Representative _____



PIMA REGIONAL BOMB SQUAD

Pima County Sheriff's Department
1750 E Benson Highway, Tucson, AZ 85714
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Pima County Code Section 9.04

9.04.010 - Short title.

This chapter may be cited and shall be known as the Pima County fireworks ordinance.

9.04.020 - Declaration of policy.

The purpose of this chapter is to protect the general public from the hazardous use, sale and display of fireworks and to require competent operators in the display of fireworks.

9.04.030 - Definitions.

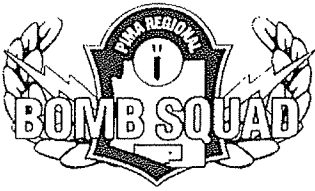
- A. "Fireworks" shall be defined as in A.R.S. Section 36-1601(1).
- B. "Governing body" means the board of supervisors of Pima County as to the area within the county but without the corporate limits of an incorporated city or town.
- C. "Person" includes individual, partnership, firm, corporation or association.
- D. "Pyrotechnic operator" means a person, of good character, who has shown to the board of supervisors and/or the sheriff that they have the ability and knowledge through experience or training to safely and properly handle fireworks.

9.04.040 - Fireworks prohibited.

- A. Except as otherwise provided by this section, it is unlawful to sell, offer, or expose for sale; use; explode or possess any fireworks.
- B. This chapter shall not be construed to prohibit or restrict the manufacture or possession, by a qualified pyrotechnic operator, of aerial set pieces designed for use in pyrotechnical displays, or the display of such set pieces in accordance with the terms of this chapter.

9.04.050 - Permit for public display.

- A. Application for a permit shall be made in writing not less than forty-five days prior to the date of the display. Every display shall be handled by a pyrotechnic operator, and shall be of a character and located discharged and fired so that it will not be hazardous to property or endanger any person. Before a permit is granted, the operator, location and handling of the display shall be approved by the board of supervisors after investigation and approval by the sheriff. After a permit is granted, the sale, possession, use and distribution of fireworks for the display shall be lawful for that purpose only. No permit is transferable or assignable and will be void if transferred or assigned.
- B. If a community, organization or group authorized under this section to obtain a permit for public display of fireworks desires a permit for a locality more than fifty miles from the county seat and not within the limits of an incorporated city or town, application may be made to the justice of the peace of the precinct in which that locality is situated. The justice may issue the permit, subject to the conditions prescribed by this section, in the



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same manner as the board of supervisors. The constable shall make the prescribed investigation. The justice of the peace shall promptly report to the board of supervisors any permit issued by him pursuant to this subsection and shall transmit the bond of the applicant to the board.

9.04.060 - Financial requirements of applicant.

- A. The board of supervisors shall require each applicant to give a satisfactory bond in a principal amount not less than five hundred dollars, conditioned upon payment of all damages which may be caused to persons or property by reason of the display.
- B. Each applicant shall be required to hold harmless the county for any and all damages or injury occurring as a result of the possession, use or display of fireworks, and each permittee shall defend all actions brought against the county with relation to the permit for fireworks, and shall pay all judgments against the county in relation to the permit and shall appeal at the option of the county all judgments against the county resulting from the granting of the permit.

9.04.070 - Permitted uses.

This chapter shall not be construed to prohibit:

- A. The sale at wholesale by a resident wholesaler, dealer or jobber of fireworks which are not prohibited by this chapter;
- B. The sale of fireworks which are to be and are shipped directly out of the state;
- C. The use of fireworks by railroads or other transportation agencies for signal purposes or illumination;
- D. The use of fireworks or explosives, or both, by farmers, ranchers and their employees, and by state and federal employees who manage wildlife resources, to rally, drive or otherwise disperse concentrations of wildlife for the purpose of protecting property or wildlife;
- E. The sale or use of explosives for blasting or other legitimate industrial purposes.

9.04.080 - Conduct of display.

- A. No permit shall be granted for any display of fireworks where the discharge, failure to fire, faulty firing, or fallout of any fireworks or other objects would endanger persons, buildings, structures, forests, or brush, nor in any case where the point at which the fireworks are to be fired is less than two hundred feet from the nearest permanent building, public highway, railroad, or other means of travel, or fifty feet from the nearest above ground telephone or telegraph line, tree or other overhead obstruction, or one hundred feet from a high-tension wire. In no case shall a display be fired within five hundred feet of a school, theater, church, hospital, or similar institution without written approval by the institution and special approval by the board of supervisors.



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- B. Spectators at a display of fireworks shall be restrained behind lines or barriers as designated by local authorities but in no case less than two hundred feet from the point at which the fireworks are to be discharged. Only authorized persons and those in actual charge of the display shall be allowed inside these lines or barriers during the unloading, preparation, firing and clean-up period of fireworks.
- C. All fireworks that fire a projectile shall be so set up that the projectile will go into the air as nearly as possible in a vertical direction.
- D. Any fireworks that remain unfired after the display is concluded shall be immediately disposed of or removed in a manner safe for the particular type of fireworks. The debris from the discharged fireworks shall be properly disposed of by the operator before he leaves the premises. The operator, upon conclusion of the display, shall make a complete and thorough search for any unfired fireworks or pieces which have failed to fire or function and shall dispose of them in a safe manner. Such search shall be instituted at the earliest possible time following the conclusion of the display but in no event later than the first period of daylight which follows.
- E. No fireworks display shall be held during any storm or wind in which the wind reaches a velocity of more than ten miles per hour.
- F. All fireworks, articles and items at places of display shall be stored in a manner and in a place secure from fire, accidental discharge, and theft or other potential hazards, and in a manner approved by the governmental agency having jurisdiction.

9.04.090 - Seizure.

The Arizona Highway Patrol or any sheriff or other peace officer shall seize, remove, or cause to be removed, at the expense of the owner, all fireworks or combustibles offered or exposed for sale, stored or possessed in violation of this chapter.

9.04.100 - Violation—Penalty.

A person violating a provision of this chapter is guilty of a class three misdemeanor.

ATTACHMENT 2



Katrina Martinez
Deputy Clerk

Pima County Clerk of the Board

Melissa Manriquez

Administration Division
33 N. Stone Avenue, Suite 100
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Management of Information & Records Division
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«Date_Approval_Mailed»

«First_Name» «Last_Name»

«DBA»

«Mailing_Address»

«MA_City», «MA_State» «MA_Zip_Code»

RE: Fireworks Display: «DBA»
Location: «Event_Location»
Date and Time: «Event_Date___TimeFW_only»

Dear «Title» «Last_Name»:

On «Meeting_Date», the Pima County Board of Supervisors' approved your permit for the above referenced fireworks display. Requirements for this event are detailed on the *Pima Regional Bomb Squad Fireworks Inspection Form* attached to your *Permit for Fireworks Display*. Should a fire emergency be declared, you will be required to adhere to any restrictions declared. At the time of the event, the fire district and/or responsible fire prevention provider may determine that storm or wind conditions are too dangerous to conduct the fireworks display. After your event, please notify this office in writing of any reports made to law enforcement agencies in association with this fireworks permit.

Your cooperation in the above matter is appreciated. Please feel free to contact me at 724-8449 with any questions.

Sincerely,

Melissa Manriquez
Clerk of the Board

Enclosure

c: Sheriff's Department, Pima Regional Bomb Squad
«Fireworks_Company»