

Resolution Number 128-89

Date Enacted 9-5-89

Subject Matter Weapons

Control Ordinance No. 43

RESOLUTION NUMBER 128-89 OF THE MAKAH TRIBAL COUNCIL

WHEREAS, the Makah Tribal Council is the governing body of the Makah Indian Tribe of the Makah Indian Reservation, Washington, by authority of the Constitution and By-Laws of the Makah Indian Tribe as approved on May 16, 1936, by the Secretary of the Interior; and

WHEREAS, the lands of the Makah Indian Reservation were set apart for the exclusive occupancy and use of the Makah Indians; and

WHEREAS, the Makah Tribal Council has the inherent sovereign jurisdiction to enact tribal laws safeguarding the health, safety and general welfare of the Makah Indian Tribe by regulating the use and disposition of property on the Reservation, such jurisdiction being specifically recognized by Article VI, Section 1(j) of the constitution and By-Laws of the Makah Indian Tribe; and

WHEREAS, the Council has the power to govern the conduct of members of the Makah Indian Tribe, and to provide for the maintenance of law and order and the administration of justice on the Reservation, such power being specifically recognized by Article VI, Section 1(i) of the Constitution and By-Laws of the Makah Indian Tribe; and

WHEREAS, the use of weapons on the Reservation presents a clear and present danger of accidental shootings, with consequent harm to life and property of the members of the Tribe and other residents of the Reservation; and

WHEREAS, it is essential to the safety and welfare of the members of the Makah Tribe and of other residents of the Reservation that the possession and use of weapons on the Reservation be regulated; and

WHEREAS, the Makah Tribal Council has examined its existing ordinances, including § 5.6.05 of the Makah Law and Order Code, and has found that they do not adequately regulate the possession and use of weapons on the Reservation; and

WHEREAS, the Makah Tribal Council has examined the attached ordinance regulating the use and possession of weapons on the Reservation and incorporating the provisions of § 5.6.05, and has found it to be satisfactory;

NOW, THEREFORE BE IT RESOLVED that the Makah Tribal Council does hereby repeal § 5.6.05 of the Makah Law and Order Code and

enact the attached ordinance, which shall be referred to as the "MAKAH WEAPONS CONTROL ORDINANCE", and shall be incorporated as Title 10 in the Makah Law and Order Code; and

BE IT FURTHER RESOLVED that the repeal of § 5.6.05 and the enactment of the attached ordinance shall not become effective until this resolution is approved by the Secretary of the Interior pursuant to the Constitution and By-Laws of the Makah Indian Tribe.

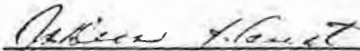
MAKAH TRIBAL COUNCIL



Daniel P. Greere
Chairman

CERTIFICATION

The foregoing resolution was adopted at a regular meeting held on September 6, 1989, at which a quorum was present, and the resolution was adopted by a vote of 3 FOR and 0 AGAINST, the Chairman or the Vice Chairman in his absence, being authorized to sign the resolution.



Tribal Secretary

TITLE 10: WEAPONS CONTROL ORDINANCE

CHAPTER 1 Definitions

For the purpose of this Title, unless the context clearly indicates otherwise, the following terms shall have the meanings ascribed to them in this Chapter 1:

§ 10.1.01. "Weapon" means any weapon or device capable of propelling a missile through the force of compressed air or gas, or through the force of combustion or explosion of gun powder or other chemical substance, or through the contraction or expansion of any rubber band, string or spring, or similar device, and includes compressed air rifles, pistols, sling shots and bows.

§ 10.1.02. "Law Enforcement Officer" means any person who by virtue of his office or public employment is vested by law with authority to maintain public order or to make arrests for offenses.

CHAPTER 2 Juveniles

§ 10.2.01. It shall be unlawful for any person under eighteen (18) years of age to use or possess a weapon; provided, that any juvenile sixteen (16) years of age or older who has completed the Weapons Training Course described in § 10.3.01 below and has been awarded the Weapons Safety Certificate by the Chief of the Makah Tribal Police as provided in § 10.3.01, shall not be subject to the provisions of this § 10.2.01.

CHAPTER 3 Weapons Safety Training Course

§ 10.3.01. The Chief of the Makah Tribal Police is authorized and directed to establish and conduct a Weapons Safety Training Course and to award a Weapons Safety Certificate to any and all persons who satisfactorily complete the course. Classes shall be conducted in accordance with recognized weapons safety standards, shall be provided at no charge to enrolled members of the Tribe, and shall commence during June of every year; provided that such

courses shall also commence at such other times as the Council may hereafter direct.

**CHAPTER 4
Target Range Established**

§ 10.4.01. A target range is hereby established at Koitlah Point as specifically designated on the attached "Weapons Control Map." Target shooting shall be permitted only during the daylight hours.

**CHAPTER 5
Prohibited Acts**

§ 10.5.01. Any person who, without lawful authority to do so, carries a loaded weapon in a vehicle on a public road, has on his person a weapon with intent unlawfully to assault another, discharges any kind of weapon from, upon or across any public highway, carries a weapon concealed upon his person, threatens to use or exhibits a weapon in a dangerous and threatening manner, or uses a weapon in a fight or quarrel, shall be deemed guilty of a Class B offense.

§ 10.5.02. Any person who discharges any weapon or possesses any loaded weapon in any area designated as "CLOSED" on the attached Weapons Control Map, except a law enforcement officer in the discharge of official duty, or an officer or member of the Armed Forces of the United States or the National Guard in the discharge of official duty, shall be guilty of a Class C offense.

**CHAPTER 6
Sanctions**

§ 10.6.01. **Criminal.**

Any person subject to the criminal jurisdiction of the Makah Tribal Court who shall violate the provisions of Chapter 5 of this Title shall be subject to prosecution in accordance with the procedures set forth in Title 2 of the Makah Law and Order, and if convicted shall be subject to the penalties set forth in Title 5 of the Code.

§ 10.6.02. Juvenile.

Any juvenile subject to the jurisdiction of the Makah Juvenile Court who shall violate the provisions of Chapter 2 or 5 of this Title shall be deemed guilty of a delinquent act. Procedures and dispositional alternatives shall be governed by Title 6 of the Makah Law and Order Code.

§ 10.6.03. Civil Exclusion.

Any person who is not subject to the criminal or juvenile jurisdiction of the Makah Tribal Court who shall violate any of the provisions of this Title shall be subject to exclusion from the Makah Reservation pursuant to Title 9 of the Law and Order Code.

CHAPTER 7
Seizure and Forfeiture

§ 10.7.01. Nature of Proceedings.

The forfeiture proceeding established in this Chapter is a civil in rem proceeding established to protect tribal property and to safeguard the health, safety and general welfare of the members of the Tribe, other residents of the Reservation, and visitors to the Reservation by regulating the use and disposition of weapons. It is remedial in nature and under the conditions described below can be invoked to protect the Tribe from the possession and use of weapons contrary to the provisions of this Title.

§ 10.7.02. Seizure.

Any tribal law enforcement officer may seize without warrant any weapon or ammunition which he has reason to believe has been used or possessed contrary to the provisions of this Title, if:

- (A) The seizure is necessary to safeguard life and property from injury; or
- (B) There is a special need for prompt action because it is likely that the person using or possessing the weapon in

violation of this Title either will continue to do so, or will leave the Reservation and not return.

The property seized shall be itemized and taken to the office of the Chief of the Makah Tribal Police and placed in the custody of the Makah Indian Tribe. The officer making the seizure shall immediately notify the Court Clerk and/or the Chief Judge of the Tribal Court.

§ 10.7.03. Redemption Before Hearing.

At any time after a seizure of property under § 10.7.02 above, but before the forfeiture hearing described in § 10.7.04 below, the owner of such property may secure its release by:

- (A) providing proof of ownership of such property; and
- (B) making payment in accordance with a schedule of money due for each prohibited activity, which schedule shall have been approved by the Tribal Council, and posted in a conspicuous location at the Makah Tribal Court and Makah Tribal Police Station;

to the Clerk of the Makah Tribal Court. Upon receipt of such proof of ownership and such payment, the Clerk shall direct the Chief of Police to release the seized property to its owner.

§ 10.7.04. Forfeiture Hearing.

Unless an extension is requested by the person from whom property was seized under this Title, or by the owner of such property, the Tribal Court shall hold a Forfeiture Hearing within ten (10) days after the seizure. A minimum of five (5) days notice of the date, time and place of the hearing shall be provided to the person from whom the property was seized, and to anyone else timely requesting such notice. At the hearing the Court shall determine whether the property was lawfully seized under § 10.7.02, and whether the property was in fact being used in violation of this ordinance. If the Court answers both questions in the affirmative, it shall order the property (or the payment made under § 10.7.03 above) forfeited. If not, it shall order the property (or the payment under § 10.7.03 above) returned to its owner. The Tribal Prosecutor shall represent the Tribe at the hearing and shall have the burden of proof by a preponderance of the evidence. At any

time prior to the hearing the owner of the property may stipulate to forfeiture of the property (or of the payment made under § 10.7.03 above), whereupon the hearing shall be cancelled.

§ 10.7.05. Forfeiture-- Disposition of Property.

In the event the Tribal Court orders forfeiture of any property seized under this Chapter, the Chief of Police shall issue notice of public sale of the seized property, and shall sell the property at public sale at the time and place indicated on such notice. Any funds received through payment under § 10.7.03 above or the sale provided for in this section shall be turned over to the Tribal Council to defray the costs of the regulation of weapons on the Reservation and the enforcement of this Title.

CHAPTER 8
Severability

If any provision of this Title or its application to any person or circumstance is held invalid, the remainder of this Title or the application of its provisions to other persons or circumstances shall not be affected.

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Makah Indian Tribe
Law & Order Code
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Title 10
Weapons Control Ordinance
Makah Ordinance No. 43

Weapons Control Map

Target Range
Closed Area



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