



AGENDA

CITY OF SEASIDE
CITY COUNCIL/SUCCESSOR
AGENCY TO REDEVELOPMENT
AGENCY OF THE CITY OF SEASIDE

JOINT SPECIAL MEETING
Council Chamber
440 Harcourt Avenue
Thursday, September 7, 2017
5:00 PM

THE STUDY SESSION (AGENDA ITEM #6) WILL BEGIN NO SOONER THAN 5:45 PM

1. CALL TO ORDER

Ralph Rubio	Mayor/Chair
Dennis Alexander	Mayor Pro Tem/Vice Chair
Jason Campbell	Council/Agency Member
David R. Pacheco	Council/Agency Member
Kayla Jones	Council/Agency Member

2. PLEDGE OF ALLEGIANCE

3. PUBLIC COMMENT

Members of the public wishing to address the City Council on matters within the jurisdiction of the City of Seaside, but not on this agenda, may do so during the Public Comment period for up to three minutes. Public Comments on specific agenda items are heard under that item. For the public record, please state your name.

4. CLOSED SESSION

A. CLOSED SESSION CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION PURSUANT TO GOVERNMENT CODE SECTION 54956.9

1. Keep Fort Ord Wild VS. City of Seaside Case Number 16Cv003795
2. LandWatch Monterey County VS. City of Seaside (Real Party: Monterey Downs, LLC) Case Number 16CV003793

B. CLOSED SESSION PURSUANT TO GOVERNMENT CODE SECTION 54956.9 (2) (d) - ANTICIPATED LITIGATION

Conference with legal counsel regarding significant exposure to litigation (one potential case).

C. CONFERENCE WITH REAL PROPERTY NEGOTIATORS PURSUANT TO GOVERNMENT CODE SECTION 54956.8:

Property Under Discussion: Seaside Resort Development: 1 McClure Way

Negotiator for the City: Craig Malin, City Manager, Under Negotiation: Price, Terms of Payment or both.

D. PURSUANT TO GOVERNMENT CODE 54957.7 -PUBLIC EMPLOYEE PERFORMANCE EVALUATION

Title: City Manager

E. PURSUANT TO GOVERNMENT CODE 54957.7 -PUBLIC EMPLOYEE PERFORMANCE EVALUATION

Title: City Attorney

5. CONSENT AGENDA

A. APPROVE AND FILE SUCCESSOR AGENCY CHECKS

PURPOSE: It is requested that the Agency Board approve and file the accounts payable and wired payments made during the period of August 5, 2017 through August 25, 2017. In addition, approval of the payroll and benefits checks, direct deposits and wired payments related to the period of August 17, 2017 is requested. Total Accounts Payable and Payroll for the above referenced period is \$2,427.73.

RECOMMENDATION: It is recommended that the Agency Board approve and file the attached checks.

B. APPROVE THE MINUTES OF AUGUST 17, 2017

6. STUDY SESSION

THE STUDY SESSION WILL BEGIN AT 5:45 PM (Or as soon thereafter as the Agenda permits)

A. REVIEW,DISCUSS AND CONSIDER FUTURE REGULATIONS CONCERNING FIREWORKS WITHIN THE CITY OF SEASIDE AND THE INTRODUCTION OF A COMMUNITY FIREWORKS EVENT

PURPOSE: The purpose of this item is to provide the City Council an opportunity to review, discuss and consider future regulation concerning fireworks within the City of Seaside and the introduction of a community Fourth of July event.

RECOMMENDATION: Provide staff direction regarding future regulation concerning fireworks within the City of Seaside and the introduction of a community Fourth of July event.

7. ADJOURNMENT

Next Regularly Scheduled Meeting:
September 21, 2017
Seaside City Hall
5:30 PM

The City of Seaside is committed to providing accessible facilities and accommodating people with disabilities in all of its services programs and activities. If special considerations are needed by any person to fully participate in this meeting, they are asked to contact the City Clerk at 899-6707 no fewer than two business days prior to the meeting to allow reasonable arrangements. The City Council chamber is equipped with a portable microphone and assisted listening devices are available at all meetings.

City Council Meetings that are held in the City Council Chambers are broadcast live to all Seaside residents on Comcast Channel 25 and U-verse Channel 99. Meetings are also available through live streaming at:

<http://cyp.telvue.com/player?id=T01629&video=52314&noplaylists=1&width=400&height=300>

Videos of past meetings are available on demand through the City's website: <http://www.ci.seaside.ca.us>

Agenda-related writings or documents provided during public meetings are available for public inspection during the meeting or from the office of the City Clerk. This agenda is posted in compliance with California Government Code Section 54954.2(a) or Section 54956.



**CITY OF SEASIDE
STAFF REPORT**

Item No.: 5.A.

TO: Successor Agency to the Redevelopment Agency of the City of Seaside

FROM: Craig Malin, City Manager

BY: Daphne Hodgson, Deputy City Manager Administrative Services

DATE: September 7, 2017

SUBJECT: APPROVE AND FILE SUCCESSOR AGENCY CHECKS

PURPOSE

It is requested that the Agency Board approve and file the accounts payable and wired payments made during the period of August 5, 2017 through August 25, 2017. In addition, approval of the payroll and benefits checks, direct deposits and wired payments related to the period of August 17, 2017 is requested. Total Accounts Payable and Payroll for the above referenced period is \$2,427.73.

RECOMMENDATION

It is recommended that the Agency Board approve and file the attached checks.

BACKGROUND

In accordance with Government Code Section 37208, at each Agency Board meeting the Board is provided a listing of the payroll and general checks issued since the last report so that it can inspect and confirm these checks. Each purchase has been reviewed and approved by the department making the purchase at the time of procurement. The invoice has been reviewed by the Finance Department prior to payment to ensure that it conforms to the approved budget.

Therefore, in accordance with Government Code Section 37208, the above referenced, and linked list of checks conforms to the approved budget and has been paid. These checks are submitted to the Agency Board for inspection and confirmation.

A description of the checks and wires exceeding \$10,000.00 is as follows:

There were no checks or wires exceeding \$10,000.00 for the period covering August 5, 2017 through August 25, 2017.

The Checks report is available on the City's website here:

<http://www.ci.seaside.ca.us/194/Check-Draft-Register>

FISCAL IMPACT

The listed checks have been budgeted and paid from the various funds, as appropriate.

ATTACHMENTS

1. <http://www.ci.seaside.ca.us/194/Check-Draft-Register>
-

Reviewed for Submission to the
City Council by:



Craig Malin, City Manager



DRAFT MINUTES

CITY OF SEASIDE
CITY COUNCIL/ SUCCESSOR
AGENCY TO THE
REDEVELOPMENT AGENCY

JOINT SPECIAL MEETING
COUNCIL CHAMBER
Thursday, August 17, 2017
5:30 PM

1. **CALL TO ORDER**

Mayor Rubio called the meeting to order at 5:30 pm.

CITY COUNCIL/SUCCESSOR AGENCY TO REDEVELOPMENT AGENCY OF THE CITY OF SEASIDE

PRESENT: Alexander, Campbell, Jones, Pacheco, Rubio
ABSENT: None

2. **PLEDGE OF ALLEGIANCE**

3. **PUBLIC COMMENT**

Mayor Rubio invited comments from the public and had no requests to speak.

4. **CLOSED SESSION**

The City Council adjourned to closed session at 5:32 PM. .

A. **CLOSED SESSION CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION PURSUANT TO GOVERNMENT CODE SECTION 54956.9**

B. **CLOSED SESSION PURSUANT TO GOVERNMENT CODE SECTION 54956.9 (2) (d) - ANTICIPATED LITIGATION**

The City Council reconvened the regular meeting at 5:50 PM. City Attorney Freeman reported that both of the active litigation cases seeking attorney's fees and costs regarding the Monterey Downs project. There is a court hearing at 9 am August 18, 2017 at Monterey Superior Court

5. **CONSENT AGENDA**

No items were pulled and no comments were made.

On motion by Mayor Pro Tem Alexander and seconded by Council Member Campbell and passed by the following vote the City Council approved the Consent Agenda as presented.

RESULT: **Approved**

MOVER: Mayor Pro Tem Dennis Alexander

SECONDER: Council Member Jason Campbell

AYES: Ralph Rubio, Dennis Alexander, Jason Campbell, Dave Pacheco, Kayla Jones

NOES: None

ABSENT: None

A. **APPROVE THE MINUTES OF AUGUST 3, 2017**

Action: Approved

B. APPROVE AND FILE SUCCESSOR AGENCY CHECKS

Action: Approved

6. BUSINESS ITEMS

A. DISCUSS AND PROVIDE DIRECTION ON UNSOLICITED PROPOSALS RECEIVED FOR THE BUILDINGS COMMONLY REFERRED TO AS THE NURSES BARRACKS

Economic Development Manager Kurt Overmeyer presented the item explaining that on July 11th the City received two unsolicited proposals for adaptive re-use of the buildings on the former Fort Ord commonly referred to as the Nurses Barracks. He described the project area and the related parcels. Mr. Overmeyer indicated that staff reviewed the adopted Economic Opportunity Plan according to the proposals and the plan does not provide a way to score two unsolicited proposals revived at the same time. Both proposals would keep the existing structures, adapting them to create approximately 50 apartments for workforce housing. Mr. Overmeyer explained the following constraints to the site: there is currently no planning for this site so it's difficult to classify which proposal would be the highest and best use determination; FORA currently owns the parcels and there is no clear point in time for these properties to be transferred to the City; the oak woodland planning process is not complete and the proposed parcel is part of this; and the Endowment parcel is included as part of the project site. The staff recommendation was to issue an RFP for the full 77 acre parcel, complete the planning process and required CEQA analysis and allow the completion of the Oak Woodland planning process. Mr. Overmeyer requested direction from the Council. Council Member Pacheco recused himself due to his relationship with one of the proposed developers.

City Attorney spoke to the adopted process for evaluating unsolicited proposals, including the evaluation and criteria scoring. There was a written policy adopted because of the frequency of unsolicited proposals and all proposals should go through that process. On question, he urged the Council to listen to the proposals, but until the applications are complete, you should not make any decisions on either of the projects. Mayor Rubio requested could provide direction to further develop the application for a specific project. Mr. Freeman reiterated that you cannot give direction for an ENA until you have completed applications to make an informed decision.

Mary Claypool from Glover Enterprises spoke to their proposal submitted July 11 to retrofit and upgrade the nurses quarters on former Fort Ord. The developer did due diligence by meeting with City Staff and FORA to see if there was an interest in developing, ownership of the property, obstacles to develop the parcel and the timing of development. She spoke to the development success of Mr. Glover and noted that since the proposal was submitted, Mr. Glover has teamed up with another developer (Cardinale) to expand the project scope. They are no longer requesting the approval of the proposal as is, but to direct staff to work with them and a project partner to execute phase 1 as the proposal as submitted, 7.2 acres of land to retrofit the existing buildings into a 40 unit apartment complex, and to approve phase two as it is developed for the remainder of the 77 acres.

No representative was present from the alternate proposing firm EKS.

The Council questioned Ms. Claypool regarding their proposal. The Council requested clarification from the developer about their proposal changes. Council Member Campbell followed up by questioning this would be considered one project or two to which she answered they would like it to be considered one project and to move forward with phase I but not be locked in with phase II if it is deemed not feasible. Council Member Campbell then spoke in support of workforce housing but requested a formal definition of workforce housing. He questioned the total population served with these projects and the total impact of the phase one and phase two to the surrounding land, and closed by saying there are too many unknowns to go forward with the current proposal.

Council Member Jones clarified that the proposal for ENA with Glover is off of the table and the developer has requested to be granted an ENA with Glover/Cardinale as a partnership.

Mayor Rubio invited comments from the public.

- Tom Mancini spoke to an ENA that was given years ago and no progress has been made but tonight's proposal is a real proposal for 7.2 acres of the 77 total acres and spoke in support of Mr. Glover's proposal. He spoke to his understanding of the definition of workforce housing.
- Kay Cline liked the idea of workforce housing and sustainability in the re-use of buildings and the timelines but expressed concern that the land is still under the domain of FORA, the oak woodland plan has not been completed. How can we commit the whole project to a developer at this point in time when the land is not in the hands of Seaside and she does not understand how it could be finished on the timeline if the land is not under seaside's control.
- Alana Miles, not speaking on behalf of MPUUSD, spoke that the school district's difficulty in hiring and retaining teachers because of the lack of affordable housing. She spoke in support of obtaining workforce housing, under any method.
- Nancy Black she grew up here and works in Seaside and spoke to the lack of housing and spoke in support of being able to have more housing opportunities so those that grew up here can return.
- Helen Rucker spoke to the proposals submitted, and the detail and lack of detail of the two different proposals. She spoke in support of allowing a development by way of a local developer who has impacted the community positively through previous development projects. She spoke to examples of successful properties developed by Mr. Glover in Seaside. She also spoke in support of the Cardinale family.
- Ms. Shari Hastey spoke in support of the need of workforce housing. She spoke in support of the local benefit from this project and giving the proposal to Mr. Glover.
- Ruthie Watts spoke in support of Mr. Glover, his local nature, his previous success and encouraged the City Council to support Mr. Glover's proposal.
- Resident spoke to his memory of Seaside historically, and we are in much need of development and anything we can do to help encourage development, we should move forward with.
- Andrea Monroe spoke to the cost of living and the need for workforce housing in the Seaside community. She requested the council to support the item.
- Alice Jordan spoke in support of Mr. Glover and his project. The opportunity is right for this project and spoke in agreement for the need of workforce housing.
- Mary Claypool clarified the issue of ownership and Mr. Houlemard agreed that FORA has title and it is in the transfer stage in 2019, but could be developed while FORA holds the title and it would be transitioned over to Seaside "seamlessly".

Mayor Rubio responded to comments. The question about the oak woodland preserve schedule should be resolved later this year. What strikes him is many things come and go, and there is always a reason to wait on a project. FORA usually takes longer than anyone anticipates and he would hate to lose an opportunity ready to go waiting for something that may not come.

Council Member Campbell was surprised and pleased to hear it was a build on the blight first proposal and provides necessary housing. Now that it is expanded to the 70 acres, it adds complications. He appreciates the comments that FORA would work with us on the transfer but also spoke to the importance of the oak woodland planning. The barracks have no Oak woodland on there, so it's a non-issue., but the remainder of the 77 acres does. The endowment parcel is important to Side and he expressed great concerned with piece milling a project. Expanding the scope of a good project, makes it more complicated. He hoped the developer would consider going forward with the initial proposal only, as a separate project, as a larger project will be harder to bring to

fruition and will cause delays.

Mayor Pro Tem Alexander spoke in support of projects that bring workforce housing. On question by Council Member Jones, Mr. Overmeyer indicated that the developer would be required to make a separate application that includes the expanded project. She expressed support but also said it is inappropriate to enter into an ENA without a complete application. If the developers can come back with a complete, revised application she would be in support.

Mayor Rubio indicated that he wanted to move forward with Mr. Glover and Mr. Cardinale; they will have to go back to staff to write an ENA anyway and figure out the finer points of that ENA. The issue of a larger project, I'm sure Mr. Cardinale is aware of what those issues are and if the developer is willing to take that risk, and if we get a head start on some of those issues, maybe we won't get stuck behind when the transfer is resolved. He believes he thinks the Council wants to see staff develop an ENA with Mr. Glover and Mr. Cardinale and bring it back for consideration.

City Attorney Freeman indicated that according to the adopted policy, there has to be a written proposal to base your decision on. The initial proposal was withdrawn, so if you are looking for a joint proposal, there should be something in writing that clarifies and identifies what the project is.

No vote was taken.

7. **ADJOURNMENT**

The meeting was adjourned at 6:56 PM.

Respectfully submitted,

Lesley Milton-Rerig, City Clerk

Ralph Rubio, Mayor/Chair



**CITY OF SEASIDE
STAFF REPORT**

Item No.: 6.A.

TO: Successor Agency to the Redevelopment Agency of the City of Seaside

FROM: Craig Malin, City Manager

BY: Brian Dempsey, Fire Chief

DATE: September 7, 2017

**SUBJECT: REVIEW, DISCUSS AND CONSIDER FUTURE REGULATIONS
CONCERNING FIREWORKS WITHIN THE CITY OF SEASIDE AND
THE INTRODUCTION OF A COMMUNITY FIREWORKS EVENT**

PURPOSE

The purpose of this item is to provide the City Council an opportunity to review, discuss and consider future regulation concerning fireworks within the City of Seaside and the introduction of a community Fourth of July event.

RECOMMENDATION

Provide staff direction regarding future regulation concerning fireworks within the City of Seaside and the introduction of a community Fourth of July event.

BACKGROUND

The City of Seaside Fireworks Ordinance is found in the Seaside, California, Code of Ordinances, Title 8, Health and Safety Code. At the April 3, 2014 Seaside City Council meeting, the City Council amended and restated the City of Seaside Municipal Code Chapter 8.32 relating to fireworks. Amendments included sale of Safe and Sane fireworks, seizure of fireworks, Police and Fire Department illegal fireworks operations plan, after action reports and administrative fines and penalties as well as the introduction of a fireworks surcharge to assist with enforcement fees.

Enforcement efforts have had limited effect on the use; and illegal fireworks continue to be a social issue within City limits.

FISCAL IMPACT

ATTACHMENTS

1. 2017 After Action Report
 2. Ordinance No.1014
-

Reviewed for Submission to the
City Council by:



Craig Malin, City Manager

Date: September 7, 2017

To: Craig Malin – City Manager

From: Brian Dempsey – Fire Chief
Robert Jackson – Police Chief

Subject: 2017 Fourth of July Fireworks After Action Report

BACKGROUND

At the April 3, 2014 Seaside City Council meeting, the City Council amended and restated the City of Seaside Municipal Code Chapter 8.32 relating to fireworks. Section 8.32.140 *Police and Fire Department Illegal Fireworks Operation Plan and After Action Report* states: “On or about September 1st of that same year, both police and fire departments must report back to the City Council with an After Action Report” including: evaluation of the effectiveness of that departments Operation Plan; relevant incident statistics and how many calls relating to “dangerous firework” were generated and how many seizure and/or administrative fine citations occurred. The following report serves as an After Action Report regarding the 2017 fireworks activity; also included in this report is an accounting of surcharge funds collected and expenditures by department.

FIRE DEPARTMENT

Safe and Sane fireworks went on sale on July 28th and concluded July 5th; all fireworks booths were inspected by the Fire Department and periodically checked for compliance throughout the week; all remained in compliance and no violations were issued. During the period Safe and Sane fireworks were on sale, the fire department responded on 67 calls for service.

On the Fourth of July the fire department staffed an additional engine company for fourteen hours and responded on 12 calls for service on July 4th with 4 fire calls related to fireworks activity. Of the 4 calls, 3 were grass or vegetation fires and one was a dumpster/trash fire; there were no structure fires in Seaside on the Fourth of July or the days surrounding the Fourth.

Year	Calls from June 28 th – July 5 th
2015	63
2016	59
2017	67

PUBLIC WORKS

On July 3rd, the Public Works Department had five staff and on July 5th, nine staff on duty to canvass every street in Seaside looking for spent fireworks left behind in the City's right of ways. The City was divided into sections to assure all streets were covered each day.

POLICE DEPARTMENT

BACKGROUND

As in years past, the City of Seaside authorized legal "Safe and Sane" fireworks to be used within our city limits. Illegal fireworks were and have always been prohibited. Illegal fireworks are those that leave the ground. Each year in Seaside, we experience a high volume of illegal firework activity that is widely spread throughout the entire city, in both residential and commercial areas.

The commercial areas are patrolled regularly and dissuade the use of illegal fireworks usually with police presence alone. This is primarily because most commercial parking lots are open and very difficult for people to light off illegal fireworks without being seen by police. The residential areas become a challenge, because illegal fireworks are blended in the roadway with legal fireworks and often times shot off from backyards where officers cannot access.

PREPARATION

The Seaside Police Department along with Public Works placed large warnings on electric sign boards in three locations throughout the city a week before the Fourth of July. In addition, we established a firework enforcement team that comprised of 2 commanders, 2 sergeants and 5 officers. Each member was briefed and given direction as to our mission and role. The mission was to focus on the welfare and safety of citizens and visitors and maintain safety to property.

OPERATION

The fireworks team provided high visibility pro-active patrol in marked police vehicles and foot patrols in areas where fireworks could be seen and/or being reported by citizens. The fire department Arson Investigators did not participate in pro-active enforcement as they had in previous years. The fire department did have extra on-duty staff working. The detail was from 1700 to 2300 hours. Below are approximate numbers related to this operation:

- Dispatched calls for service: **87**
- Non-Emergency calls to Records Division: **30+**
- Arrested/Cited: **1**
- Fireworks collected as evidence: **44**
- Fireworks confiscated: **10**
- People contacted in areas of firework activity: **100+**

In addition to these numbers, officers broke up multiple large groups that were likely firing illegal fireworks. Getting into some of these neighborhoods, even on foot can be challenging

due to large groups that see police coming. This makes it difficult to identify who fired off illegal fireworks. In addition, many of the fireworks fire off one after the other and once officers arrive; they are met with an empty box.

The illegal fireworks diminished significantly around 2230 hours and it was decided to end the operation a little after 2300 hours. Around midnight, the patrol officers heard loud explosion near Elm and Noche Buena Street and determined a suspect had discharged a firearm into the sky. The suspect was arrested and the gun was seized.

FISCAL IMPACT

The below table depicts the following:

- Gross retail sales of Safe and Sane fireworks within the City
- Fireworks Surcharge of 7% (in accordance with City of Seaside Municipal Code Chapter 8.32)
- Revenue received by the City of Seaside from the sale of Safe and Sane fireworks

Year	Gross Retail Sales	7% Surcharge	Revenue to the City
2016	\$252,837.98	\$17,698.66	\$17,698.66
2017	\$245,139.04	\$17,159.85	\$17,159.85

Firework Permit Information:

Year	Number of Issued Permits	Permit Fees Collected
2016	10	\$2,920.00
2017	9	\$2,898.00

The following expenses were incurred by each department:

Police Department: \$8,421.55 (Overtime only)

Fire Department: \$2,410.10 (Overtime Only)

Public Works: \$9,610.41 (Overtime + Equipment)

2017 Total Revenue (Surcharge Only): \$17,159.85

2017 Total Expenses: \$20,442.06

Net cost to the General Fund - 3,282.21

ORDINANCE NO.1014

**ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SEASIDE
AMENDING AND RESTATING CITY OF SEASIDE MUNICIPAL CODE CHAPTER
8.32 RELATING TO FIREWORKS**

THE CITY COUNCIL OF THE CITY OF SEASIDE DOES ORDAIN AS FOLLOWS:

Section 1. FINDINGS AND PURPOSES.

- A. The purpose of this Ordinance is to amend and restate City of Seaside Municipal Code Chapter 8.32 relating to Fireworks.

Section 2. AMENDMENT AND RESTATEMENT OF SECTION 8.32 OF THE
SEASIDE MUNICIPAL CODE

The City of Seaside Municipal Code Section 8.32 is hereby deleted in its entirety and restated to read as follows:

CHAPTER 8.32 FIREWORKS

Sections:

- 8.32.010 Purpose**
- 8.32.020 Definitions**
- 8.32.030 General prohibition against possession; use,
or sale of fireworks**
- 8.32.040 Exception -- Public displays and special events;
agricultural and wildlife fireworks; model
rockets**
- 8.32.050 Exception - Safe and sane fireworks**
- 8.32.060 Permit to sell safe and sane fireworks --
Application; qualified applicants**
- 8.32.070 Limitation on permits to sell safe and sane
fireworks; selection of eligible nonprofit
organizations**
- 8.32.080 Operator safety seminar**
- 8.32.090 Operation of fireworks stand**
- 8.32.100 Fireworks stands**
- 8.32.110 General requirements for permittees**
- 8.32.120 Revocation of permit**
- 8.32.130 Seizure of fireworks**
- 8.32.140 Police and Fire Department Illegal Fireworks
Operation Plan and After Action Report**

{00020644.DOCX; 1}

8.32.150 Surcharge
8.32.160 Wholesale storage of safe and sane fireworks
8.32.170 Fireworks wholesaler public education plan
8.32.180 Manufacture of fireworks prohibited
8.32.190 Administrative fines and penalties
8.32.200 Concurrent authority
8.30.210 Fees deemed debt to the city

8.32.010 Purpose.

The purpose of this chapter is to regulate the possession, use, storage, sale and display of fireworks within the City of Seaside.

8.32.020 Definitions.

When used in this chapter, the following words shall have the meanings ascribed to them in this section:

(a) "Affiliated organizations", for purposes of this Chapter, shall be presumed to be the

following:

1. Organizations incorporated under the same charter or organization and their auxiliaries if the auxiliary is incorporated under the same charter;
2. Organizations sharing the same officers and/or place of meetings and/or national parent organization;
3. Subdivisions and/or fractional divisions however named or delineated of organizations

(b) "Citation". An administrative citation issued pursuant to this section to remedy a violation.

(c) "Citee". Any person served with an administrative citation charging him or her as a responsible person for violation.

(d) "City". City of Seaside.

(e) "Code". City of Seaside Municipal Code.

(f) “Code Enforcement Officer” or “CEO”. Any employee or agent of the City of Seaside designated by the City Council to enforce any provision of this code.

(g) “Dangerous fireworks”. Fireworks as listed and defined in California Health and Safety Code section 12505 and section 12561 and the relevant sections of Title 19 of the California Code of Regulations, as the same may be amended from time to time.

(h) “Eligible nonprofit organization”. A duly organized nonprofit, tax exempt charitable, religious, civic, patriotic, or community service association, organization, or corporation (collectively “the organization”) which has met all the following criteria continuously for a minimum period of one year immediately preceding the filing of an application for a permit to display for sale or to sell safe and sane fireworks.

1. The organization must be a duly organized nonprofit entity which has tax exempt status from the Internal Revenue Service or the Franchise Tax Board, or which is an organization affiliated with and operating solely in support of an elementary school, junior high school, high school, university or community college that is located within the City of Seaside and that serves, in whole or in part, residents of the City of Seaside.

2. The organization must have its principal place of business and principal meeting place within the City of Seaside and must hold its regularly scheduled meetings within the City of Seaside.

3. The organization must be one which provides direct and regular community services and benefits to the residents of the City of Seaside.

4. The organization must not have had a permit to sell revoked within twenty-four months prior to the organization’s submittal of an application for a permit to sell.

(i) “Exempt fireworks”. Any special item containing pyrotechnic compositions which the state fire marshal, with the advice of the state fire advisory board, has investigated and determined to be limited to industrial, commercial, and agricultural use, or religious ceremonies when authorized by a permit granted by the authority having jurisdiction.

(j) “Fireworks”. Any device containing chemical elements and chemical compounds capable of burning independently of the oxygen of the atmosphere and producing audible, visual, mechanical, or thermal effects which are useful as pyrotechnic devices or for entertainment. These items include, but are not limited to, devices designated by the manufacturer as fireworks, torpedoes, skyrockets, roman candles, rockets, Daygo bombs, sparklers, party poppers, paper caps, chasers, fountains, smoke

sparks, aerial bombs, and fireworks kits. These terms include both “dangerous fireworks” and “safe and sane fireworks”.

(k) “Fireworks stand”. Any building, counter, or other structure of a temporary nature used in the sale, the offering for sale, or display for sale of “safe and sane fireworks”.

(l) “Fireworks sales permit” or “permit”. A permit issued pursuant to this chapter authorizing the display for sale and the sale of state-approved fireworks.

(m) “Fireworks wholesaler” and “fireworks distributor”. A person, other than an importer, exporter, or manufacturer selling only to wholesalers, who sells fireworks to a retailer or any other person for resale. It also includes any person who sells dangerous fireworks to public display permittees.

(n) “Hearing Officer”. The person appointed by the City manager to serve as the hearing officer for administrative hearings hereunder.

(o) “Issuance” or “Issued”.

1. The preparation and service of an administrative fine citation to a citee in the same manner as a summons in a civil action in accordance with Article III (commencing with Section 415.10) of Chapter 4 of Title 5 of Part 2 of the Code of Civil Procedures; or

2. Mailing of administrative fine citation to the citee by certified mail with return receipt, to the address shown on the official records of the County Assessor; or

3. By personally serving the responsible party by personal delivery of the administrative fine citation or by substituted service. Substituted service may be accomplished as follows:

A. By leaving a copy at the recipient’s dwelling or usual place of abode, in the presence of a competent member of the household, and thereafter mailing by First Class Mail, postage pre-paid, a copy to the recipient at the address where the copy was left; or

B. In the event the responsible party cannot be served by First Class Mail, postage pre-paid, or cannot be personally served and has a property manager or rental agency overseeing the premises, substituted service may be made upon the property manager or rental agency or may be affected by posting the property with the administrative fine citation and mailing a copy by First Class Mail, postage pre-paid, or the responsible party in violation at the address of the property where the violation exists.

(p) “Permittee”. An eligible nonprofit organization to which a permit has been issued pursuant to this chapter.

(q) “Person”. Any person, partnership, organization, firm, corporation, association or any combination thereof, or any city, county, city and county, and state, and shall include any of their employees and authorized representatives.

(r) “Principal place of business” and “principal meeting place”. Includes, but is not limited to, a permanent structure, playing field, geographic area, or service population which resides in or is located within the City of Seaside.

(s) “Public display of fireworks”. An entertainment feature where the public is admitted or permitted to view the display or discharge of fireworks, including but not limited to, those defined in this Chapter.

(t) “Responsible Person”. A person who causes a violation of this Chapter to occur or allows a violation to exist or continue, by his or her action or failure to act, or whose agent, employee or independent contractor causes a violation to occur, or allows a violation to exist or continue. There is a rebuttable presumption that the record owner of a residential parcel, as shown on the county’s latest equalized property taxes assessment rolls, and a lessee of a residential parcel has a notice of any violation existing on said property. For purposes of this Chapter, there may be more than one responsible person for a violation. Any person, irrespective of age, found in violation of any provision of this Chapter may be issued a citation in accordance with the provisions of this Chapter. Every parent, guardian or other person, having the legal care, custody or control of any person under the age of 18 years, who knows or responsible should know that a minor is in violation of this Chapter, may be issued a citation in accordance with the provisions of this Chapter, in addition to any citation that may be issued to the offending minor.

(u) “Violation” or “Violates”. Any violation of any provision of this Chapter

8.32.030 General prohibition against possession, use, or sale of fireworks.

Except as otherwise provided in this chapter, no person shall possess, sell, use, display, explode, or discharge any fireworks within the City of Seaside.

8.32.040 Exception -- Public displays and special events; agricultural and wildlife fireworks; model rockets.

(a) The display of fireworks shall be permitted as a part of an entertainment feature for which a special event permit has been issued pursuant to Chapter 17.52.040, subsection E.2, of the Seaside Municipal Code and to which the general public or a private group is admitted or invited to attend and is admitted or permitted to enter.

(b) It shall be unlawful for any person to possess, sell, furnish, or give away, or offer or expose for sale, or fire, discharge, or explode, any agricultural and wildlife fireworks within the City of Seaside without first obtaining a permit to do so from the fire chief. The permit shall not be transferable and shall particularly describe the place where agricultural and wildlife fireworks are to be stored, sold, or discharged. Such permit shall be for such length of time as the fire chief shall determine, but in any event, not to exceed twelve months.

(c) The sale, purchase, storage, firing or discharge of model rockets may be allowed by written permit from the fire chief or his/her designee which shall include, but not be limited to, the conditions contained in Title 19 of the California State Administrative Code and any other conditions the fire chief may deem reasonably necessary for the safety and welfare of the public and the community.

8.32.050 Exception -- Safe and sane fireworks.

The sale, display for sale, and use of safe and sane fireworks shall be permitted only during that period beginning at noon on June 28 and ending at 10:00 p.m. July 5 of that same year. It shall be unlawful for any person to sell safe and sane fireworks within the City of Seaside without having first applied for and received a permit from the city as required under this chapter.

8.32.060 Permit to sell safe and sane fireworks -- Application; qualified applicants.

(a) All eligible nonprofit organizations interested in displaying for sale and in selling safe and sane fireworks must meet all requirements of this chapter and must submit an application to the city in a manner determined by the city manager or his/her designee. All applications for permits to display for sale and to sell safe and sane fireworks shall be in writing and shall be submitted to the city's fire chief or his/her designee on forms supplied by the city. Any eligible nonprofit organization which demonstrates compliance with all applicable requirements and conditions of this chapter shall be deemed a qualified applicant.

(b) An interested eligible nonprofit organization may submit to the city an application for a permit to sell beginning March 1 of each year, or the first business day thereafter, and ending the last business day in April of that same year.

(c) No organization shall submit more than one application. Submittal of more than one application by any organization or an affiliated organization thereof shall be grounds for denial of all applications. The city manager shall have final authority to determine the affiliation of organizations.

(d) Any attempt to transfer an application shall void any and all applications filed by or on behalf of both the transferor and the transferee.

(e) Each application shall be accompanied by a nonrefundable application fee at an amount established by resolution of the city council. The application fee shall be in addition to any fee or tax imposed by any other chapter of the Seaside Municipal Code.

8.32.070 Limitation on permits to sell safe and sane fireworks; selection of eligible nonprofit organizations.

(a) Each calendar year, the city shall issue, at the sole discretion of the city council, up to a maximum number of permits not to exceed thirteen. One permit shall be issued to each eligible nonprofit organization selected pursuant to this section.

(b) Of the maximum number of stands/permits allowable in any given year, there shall be two classes of stands/permits: grandfathered and lottery.

1. Grandfathered stands/permits are provided in recognition of the fact that some local service organizations have relied upon Safe and Sane Fireworks sales as a primary source of income for many years.
2. Lottery stands/permits are provided in recognition of the fact that there are other local service organizations that could benefit from the sale of Safe and Sane Fireworks, but are not as dependent upon this source of income.

Grandfathered permits may be established by City Council Resolution. Grandfathered organizations must reapply each year for a permit to sell Safe and Sane Fireworks to retain their grandfathered status. Failure by a grandfathered organization to file complete permit application packets with the City by the required deadlines shall result in loss of their grandfathered status. Failure to abide by City policies and/or fireworks sales requirements, or by any other valid order or requirement issued by the Fire Department, may result in the disqualification for grandfathered status and will be grounds for the organization that previously held grandfathered status subject to the loss of such status.

The number of lottery stands/permits consists of the difference between the maximum number of stands/permits allowed under this ordinance and the number of valid grandfathered stand/permits issued in that year. The number of lottery stand/permits may increase if one or more grandfathered stand/permits are not applied for in accordance with the City requirements. Lottery stand/permits shall be granted by lottery drawing held by the City Clerk no later than May 15 of each year. Organizations selected by a lottery shall be notified by the City Clerk following the results of the drawing. Notice of lottery drawing date and location shall be provided by the City Clerk by notice posted on the City's website or placed in a daily newspaper having wide spread circulation of the City of Seaside and by mail to those nonprofit organizations who have applied for a lottery stand/permit that year. Lottery stand/permits do not become grandfathered stand/permits

stand/permit that year. Lottery stand/permits do not become grandfathered stand/permits the following year. A holder of a lottery stand/permit in a particular year is not guaranteed the lottery stand/permit the following year.

(c) Two or more eligible nonprofit organizations from the same priority category may jointly submit an application to the city pursuant to Section 8.32.060 and may jointly receive a permit to sell fireworks pursuant to this chapter.

(d) The city's fire marshal or his/her designee shall issue permits to those eligible nonprofit organizations that have submitted a conforming and timely application. Selection shall be made at random from among all those eligible nonprofit organizations which have submitted conforming and timely applications. The fire chief or his/her designee shall notify selected organizations in writing no later than May 15 of each year.

(e) Permits issued pursuant to this section are valid only during the calendar year issued.

(f) Permits are not transferrable to any other person or organization.

(g) Prior to the issuance of a permit pursuant to this Chapter, and in addition to those other requirements set forth in this Chapter or on the permit application; in order for a permit to be issued, a qualified nonprofit organization shall demonstrate compliance with all of the following:

1. On a form provided by the City, set forth the proposed location of the fireworks stand; the name, address and telephone number of one or more responsible adults who will be in charge of and responsible for the fireworks stand during the period fireworks are sold, displayed or stored at such location; and written permission from the owner of record and/or lessor and/or management company of the property upon which said fireworks stand is proposed to be located;
2. A copy of the requisite retail sales permit issued by the Office of the California State Fire Marshal;
3. Evidence of a temporary sales tax permit from the California State Board of Equalization;
4. Payment of the permit/license fee at the amount established by resolution of the City Council;
5. Throughout the term of a permit issued pursuant to this Chapter, each permittee shall pay for and maintain in full force and effect policies of insurance in a form and amount and with coverage types required by the City. The policies of insurance shall name the City, its officers, officials, agents, and employees as additional insureds.

8.32.080 Operator safety seminar.

Each year, one or more representative from each organization that is issued a permit to display for sale or to sell safe and sane fireworks shall attend a stand operator safety seminar conducted by the City of Seaside Fire Department and each of the fireworks wholesalers operating in Seaside that year. The failure of an organization to have a representative of the organization attend the seminar shall result in the revocation of the permit and the disallowance to display for sale or to sell safe and sane fireworks.

8.32.090 Operation of fireworks stand.

(a) No person shall sell any fireworks to any person under the age of eighteen years.

(b) The sale of safe and sane fireworks pursuant to a permit issued under this chapter shall begin no earlier than noon on June 28 and shall not continue after 10:00 p.m. on July 5 of the same year. The sale of safe and sane fireworks shall be permitted only from 9:00 a.m. to 10:00 p.m. daily, except June 28 when the hours shall be from twelve noon to 10:00 p.m.

(c) No person other than the permittee organization or corporation shall operate the stand for which the permit is issued or share or otherwise participate in the profits of the operation of such stand.

(d) No person other than the individuals who are members or volunteers of the permittee organization or the spouses, significant others, parents or adult children of such members shall sell or otherwise participate in the sale or display of safe and sane fireworks at such fireworks stand.

(e) No person under the age of eighteen shall sell or participate in the sale of safe and sane fireworks or be in the fireworks stand and there shall be at least one supervisor, twenty-one years of age or older on duty at all times.

(f) No person shall be paid any consideration by the permittee organization or any wholesale distributor of safe and sane fireworks for selling or otherwise participating in the sale of fireworks at such stand; provided, however, that compensation may be paid for security personnel during non-sale hours and to the party authorizing location of the stand on its property. The fire marshal or fire chief may revoke the fireworks storage permit of any wholesale distributor violating the terms of this section.

8.32.100 Fireworks stands.

All retail sales of safe and sane fireworks shall be permitted only from within a fireworks stand. The sale from any other building, structure or location is prohibited. Fireworks stands shall be subject to the following provisions:

(a) No fireworks stand shall be located within thirty feet of any adjacent building or within one hundred feet of any gasoline pump or distribution point.

(b) Fireworks stands may be located on paved or unpaved surfaces, subject to the approval of the Seaside Fire Department and the Community Planning and Development Department.

(c) Fireworks stands need not comply with the provisions of the building code of the city; provided, however, that all stands shall be erected under the supervision of the city's inspectors, who shall require that stands be constructed in a manner which will reasonably insure the safety of attendants and patrons; and provided further that any electrical installations shall comply with all applicable codes. The permittee shall be responsible for the full costs associated with any inspections conducted by the city's inspectors and the permittee shall fully reimburse the city for all of its costs incurred in association with such inspections. The permittee shall make payment in full to the city within ten days of receipt of the invoice. Nonpayment shall prohibit the permittee from obtaining permits for subsequent years until the invoice is paid in full.

(d) A twenty five-foot area surrounding the fireworks stand must be cleared of dried vegetation and must be maintained.

(e) No fireworks stand shall be located closer than ten feet from any public roadway unless the rear of the fireworks stand is positioned against a curb that faces the primary use on that parcel and the fireworks stand is positioned to allow for the safe use of the parking lot and to allow for the free flow of vehicular and pedestrian traffic throughout the parcel. Fireworks stands may only be placed on a commercial, mixed use, or industrial zoned parcel and in a location which otherwise meets the approval of the Seaside Fire Department and Community Planning and Development Department.

(f) If a fireworks stand is going to use electric lights the wiring must be properly installed and will be subject to inspection by the City of Seaside Fire Department and/or Building Department. Open splices are prohibited and all wiring must be protected from physical damage and weather. Exposed light bulbs shall be protected with covers, cages or screens. Nothing in this chapter shall preclude or prohibit the use of battery-operated lights in and around a fireworks stand.

(g) No fireworks stand shall have a floor area in excess of seven hundred fifty square feet.

(h) Each fireworks stand shall have a least two exits. Each stand in excess of forty feet in length shall have at least three exits spaced approximately equidistant apart; provided, however, that in no case shall the distance between exits exceed twenty-four feet apart. Exit doors shall not be less than twenty-four inches wide and six feet in height and shall swing in the direction of exit travel.

(i) Each fireworks stand shall be provided with at least one approved pressurized "water type" (minimum rating 2A) fire extinguisher with an up-to-date inspection tag that shows the fire extinguisher has been serviced within the past year.

(j) All fireworks stands shall be disassembled and removed no later than July 8 at 5:00 p.m.

(k) All fireworks stands are subject to daily inspection by the fire chief or his/her designee and the permittee shall be responsible for the costs incurred by the city in such inspections at the rates and amounts established by resolution of the city council. Other than the initial inspections, the permittee shall not be responsible for the cost of additional inspections unless probable cause existed necessitating the inspection(s) in the first place. The city will invoice the permittee for the full costs of inspection incurred by the city during the term the fireworks stand is in operation. The permittee shall make payment in full to the city within ten days of receipt of the invoice. Nonpayment shall prohibit the permittee from obtaining permits for subsequent years until the invoice is paid in full.

8.32.110 General requirements for permittees.

(a) Fireworks stands shall not be located closer than six hundred feet apart, unless separated by a street, roadway or building.

(b) All weeds and combustible material shall be cleared from the location of the fireworks stand to a distance of at least twenty-five feet surrounding the fireworks stand.

(c) All trash and debris resulting from the operation of the fireworks stand must be removed on a daily basis.

(d) "NO SMOKING" signs shall be prominently displayed on all sides of the fireworks stand, in both English and Spanish. Each sign shall have the words "NO SMOKING" in red letters not less than two inches in height with a minimum one-half-inch stroke.

(e) No fuel-powered generator or similar equipment shall be allowed within fifty feet of a fireworks stand.

(f) When the stand is not being used for sale and/or display of fireworks, a reinforced, heavy metal, fully-enclosed container, similar to a SAWDOC, walk-in type drop box or its equivalent, as approved by the fire chief or his/her designee, may be used to store fireworks.

(g) Each fireworks stand must post its City of Seaside permit, its temporary sales tax permit, and its state fire marshal retail sales permit and proof of their required insurance in a prominent place inside the fireworks stand.

(h) All unsold stock of fireworks held by the permittee after 10:00 p.m on July 5 shall be immediately stored in the container referenced in Section 8.32.110(f) above and picked up by the fireworks wholesaler within 72 hours thereafter.

8.32.120 Revocation of permit.

(a) The city fire chief or his/her designee or the city fire marshal or his/her designee may revoke, immediately and without notice or hearing, the permit of any permittee who violates any provision of this chapter. In the event of any such revocation the permittee must immediately cease operations and shall no longer display for sale or sell any fireworks. Any permittee whose permit has been revoked shall be prohibited from applying for or from receiving a permit under this chapter for a period of two years from the date of revocation.

(b) Any revocation made pursuant to this section may be appealed by the permittee to the city manager on the next business day following such revocation. The city's fire chief and/or fire marshal or his/her designee shall provide the city manager with written notice of the revocation, including the name of the permittee and a brief statement on the grounds for revocation. The city manager shall consider the appeal at his/her earliest convenience and may, in his/her sole discretion, meet with the permittee to review the revocation and may, in his/her discretion, support or overturn the revocation. The city manager's decision shall be final and dispositive of the matter. In the event the city manager overturns the revocation the permittee may immediately operations pursuant to the originally issued permit and shall remain eligible for participation in the next year's application selection process.

8.32.130 Seizure of Fireworks.

The fire chief or the fire marshal may seize, take, remove, or cause to be removed, at the expense of the permittee or owner thereof, all stocks of fireworks displayed or available for sale, stored, or held in violation of this chapter.

8.32.140 POLICE AND FIRE DEPARTMENT ILLEGAL FIREWORKS OPERATION PLAN AND AFTER ACTION REPORT.

(a) On or before the first regular City Council meeting in May of every year, both the City's police and fire departments must present to the City Council an Operation Plan for the thirty day period surrounding the 4th of July (June 17 through July 16) for that year. Said operation plan should include, but not be limited to, the following information:

1. Identification of areas within the City where illegal fireworks were a problem in the previous year;
2. A general explanation of the supplemental fire and law enforcement personnel deployed within the City;
3. A report on the additional apparatus and personnel who'll be on duty for the period of June 17th through July 16th of that year.
4. Recommendations on and discussion of what, if any, dedicated illegal fireworks enforcement patrols there should be for that year and all other relevant information and statistics deemed necessary by the City Council.
5. A detailed discussion of the costs that will be incurred by the City that year to be delivered in the operation plan; what, if any, of these costs will be covered by existing fees levied on the permittees, and unexpended surcharge revenue from prior years.
6. A proposed recommendation for a surcharge resolution establishing the surcharge amount to be levied that year on each retail sale of Safe and Sane Fireworks in an amount not to exceed 7%.

(b) On or about September 1 of that same year, both police and fire departments must report back to the City Council with an After Action Report. That report should include, but is not limited to:

1. An evaluation of the effectiveness of that department's Operation Plan for that year including a listing of any significant fireworks-related incidents, both "Dangerous Fireworks" and "Safe and Sane Fireworks";
2. Relevant incident statistics for the period of June 17th through July 16th, and identification of fireworks related incidents.
3. A report on how many calls there were regarding suspected "Dangerous Fireworks", how many of those calls either of the departments responded to, how many of those calls resulted in seizures and/or administrative fine citations.

8.32.150 Fireworks Surcharge.

(a) All nonprofit retail booth locations shall assess a surcharge, on all retail sales of Safe and Sane Fireworks that occur in the City. The assessment shall be paid by the permittee upon presentment of an invoice by the City. The surcharge will be assessed to the public for each retail sale and is up and above the retail price of the fireworks and will not be deducted from the permittees net profit.

(b) The assessment is intended to raise sufficient funds for the City to help pay for the cost of enforcement; inspection of stands; public education and awareness campaigns; enforcing the provisions of this Chapter, including extra personnel time, and cleanup of the fireworks trash and debris left behind each year. "Extra personnel time" shall be defined as employee or contracted employee time that the City would not otherwise incur but for the sale and use of Safe and Sane Fireworks. By the first regular City Council meeting in May of each year, the City Manager must submit to the City Council for its approval, a proposed budget for police, fire, administrative services and public works departments. The exact amount of the assessment shall be determined each year by no later than the second regular City Council meeting in May of that year and notice sent to each of the permittees. In no event shall the assessment be more than 7% of the gross sales of the fireworks sold in the City that year. The fireworks wholesaler with whom each permittee has contracted shall be responsible for collecting the estimated assessment from their nonprofit organizations, advising the City of the amount of each estimated assessment collected, and holding the funds in trust pending notification by the City of the exact amount owed. After the City determines each permittee's share of the total annual sales volume, each permittee shall be billed for its share of the total assessment. A duplicate copy of each permittee's invoice will be sent to its fireworks wholesaler. Payment of the assessment by each permittee shall be due to the City 30 days after the issuance of the invoice. The expenses submitted are subject to review, audit and dispute by any permittee who has to pay the assessment that year. Any dispute of the assessment must be filed within 15 days of its receipt or any right to contest it will be deemed waived. The City Council is the final arbiter of any disputed assessment. Any excess (i.e., difference between amount of surcharge collected by each group and the amount of their individual assessment) shall remain the property of that permittee.

(c) Failure by any permittee to pay the amount assessed to it by the City shall be cause to bar the permittee from selling Safe and Sane Fireworks in the future, until the assessment is paid in full. Furthermore, if the assessment is not paid by the due date, it shall be subject to a 10% penalty for each month or portion of a month that it is late.

8.32.160 Wholesale storage of safe and sane fireworks.

(a) Wholesale storage of California State Fire Marshal listed safe and sane fireworks may be allowed under the provisions of this section and chapter. All wholesale storage facilities or buildings shall conform to the applicable building and fire codes of the City of Seaside.

(b) An annual storage permit shall be required from the Seaside Fire Department for the wholesale storage of fireworks. The annual storage permit shall be annually renewable, subject to inspection clearance by the Seaside Fire Department. The fee for such permit shall be established by resolution of the city council.

(c) All wholesale storage facilities or buildings are subject to daily inspection by the Seaside Fire Department. The city will invoice the wholesale storage permittee for the full costs of inspection incurred by the city during the term the location is in use. The permittee shall make payment in full to the city within ten days of receipt of the invoice. Nonpayment shall prohibit the permittee from obtaining permits for subsequent years until the invoice is paid in full.

8.32.170 Fireworks wholesaler public education plan.

Each fireworks distributor and fireworks wholesaler which is supplying one or more of the permittees under this chapter shall annually submit a public education plan to the City of Seaside by no later than 5:00 p.m. on June 1. Each public education plan shall outline the public safety and education efforts that the fireworks distributor or fireworks wholesaler has or intends to initiate, support, and/or deliver within the City of Seaside prior to and during the dates during which fireworks may be sold, displayed for sale, and used within the City of Seaside. At a minimum each public education plan shall consist of the distribution with each sale of safe and sane fireworks of two fireworks educational brochures prepared by the state fire marshal's office, and not less than one thousand dollars worth of public service announcements broadcast on local television, and bearing the fireworks wholesaler's name, on the safe and responsible use of safe and sane fireworks. Each public education plan should at least include samples of all the materials and the extent of distribution of all of the safety and education materials identified in that fireworks distributor or fireworks wholesaler's public education plan.

8.32.180 Manufacture of fireworks prohibited.

No person, firm, or corporation shall manufacture fireworks of any type within the City of Seaside.

8.32.190 Administrative fines and penalties.

(a) Any violation of this chapter shall be a misdemeanor.

(b) Any person or entity who possesses, uses, stores, sells, and/or displays safe and sane fireworks on or at dates, times, and/or locations other than those permitted under this chapter are subject to an administrative fine, together with all costs of enforcement, of not less than one thousand dollars for each such offense. Administrative fines shall be subject to the procedures established in Title 2 of chapter 2.56 of the Seaside Municipal Code.

(c) The remedies set forth in this Chapter are in addition to all other legal and equitable remedies, administrative, criminal or civil, that may be pursued by the city to address violations of this chapter including, as an alternative to the issuance of an administrative fine pursuant to this section, and in his or her sole discretion, the city attorney may criminally prosecute a violation of this chapter.

(d) The imposition of administrative fines under this section related to the use, possession, sale, or display for sale of dangerous fireworks shall be limited to persons who possess, sell, use, and/or display, or the seizure of, less than twenty-five pounds of dangerous fireworks measured by gross weight. Any person or entity who possesses, uses, stores, sells, and/or displays less than twenty-five pounds of dangerous fireworks are subject to an administrative fine, together with all costs of enforcement, of not less than one thousand dollars for each such offense.

(e) Administrative fines collected pursuant to this section and related to dangerous fireworks shall not be subject to the restrictions of California Health and Safety Code section 12500-12759; however, the city shall provide cost reimbursement to the state fire marshal pursuant to regulations adopted by the state fire marshal addressing the state fire marshal's cost for the transportation and disposal of dangerous fireworks seized by the city, which costs will be part of any administrative fine imposed. Unless and until said regulations have been adopted, the city shall hold in trust two hundred fifty dollars, or twenty-five percent of administrative fine collected, to cover the cost reimbursement to the state fire marshal for the cost of transportation and disposal of the dangerous fireworks.

(f) Because of the serious threat of fire or injury posed by the use of "Dangerous Fireworks" that can result from persistent or repeated failures to comply with the provisions of this code and the effect of such conditions or activities on the safety and the use and enjoyment of surrounding properties and to the public health, safety and welfare, this Chapter imposes strict civil liability upon the owners of residential real property for all violations of this code existing on their residential real property. Each contiguous use, display and/or possession shall constitute a separate violation and shall be subject to a separate administrative fine.

8.32.200 Concurrent authority.

This chapter is not the exclusive regulation of fireworks within the city. It shall supplement and be in addition to other state, local, or federal laws, regulations, or ordinances and any other legal entity or agency having jurisdiction.

8.32.210 Fees deemed debt to the city.

The amount of any fine, fee, cost or charge imposed by this Chapter shall be deemed a debt to the city that is recoverable in any court of competent jurisdiction.

Section 3. SEVERABILITY.

- A. If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, the remainder of the Ordinance, including the application of such part or provision to other persons or circumstances, shall not be affected thereby and

shall continue in full force and effect. To this end, provisions of this Ordinance are severable.

- B. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases be held unconstitutional, invalid or unenforceable.

Section 4. EFFECTIVE DATE.

This Ordinance shall become effective thirty (30) days after its final passage and adoption.

INTRODUCED by the City Council of the City of Seaside on the 20th day of March, 2014.

PASSED AND ADOPTED by the City Council of the City of Seaside this 3rd day of April, 2014, by the following roll call vote:

AYES:	5	COUNCIL MEMBERS	Alexander, Edwards, Oglesby, Pacheco, Rubio
NOES:	0	COUNCIL MEMBERS	None
ABSENT:	0	COUNCIL MEMBERS	None
ABSTAIN:	0	COUNCIL MEMBERS	None

APPROVED:



Ralph Rubio, Mayor

ATTEST:



Lesley E. Milton, City Clerk

