

Exhibit "A"

ORDINANCE NO. 2027

**AN ORDINANCE OF THE PEOPLE OF THE CITY OF SEASIDE REPEALING AND REPLACING CHAPTER 8.32 (FIREWORKS) OF THE SEASIDE MUNICIPAL CODE TO PROHIBIT THE POSSESSION, USE, SALE OR DISCHARGE OF FIREWORKS IN THE CITY OF SEASIDE**

**WHEREAS**, pursuant to Section 12541 of the California Health and Safety Code, a city may, by ordinance, prohibit or regulate the possession, sale, use, storage or discharge of fireworks; and

**WHEREAS**, Chapter 8.32 (Fireworks) of the Seaside Municipal Code currently regulates the possession, sale, use, storage and discharge of fireworks; and

**WHEREAS**, it is in the interest of the public health, safety and welfare to prohibit the possession, use, sale, storage, and discharge of fireworks, except for public displays in the City of Seaside; and

**WHEREAS**, pursuant to Section 9222 of the California Elections Code, the City Council determined to submit to the voters at the November 5, 2024 General Municipal Election a ballot measure amending Chapter 8.32 (Fireworks) of the Seaside Municipal Code to prohibit the possession, use, sale, storage, and discharge of fireworks in the City of Seaside except for public firework displays and other permitted firework activity that have obtained a discretionary permit approved by the City Council pursuant to Section 8.32 of the Seaside Municipal Code.

**NOW, THEREFORE, THE PEOPLE OF THE CITY OF SEASIDE, CALIFORNIA, DO ORDAIN AS FOLLOWS:**

SECTION 1. Findings. The above recitals are true and correct and incorporated herein.

SECTION 2. Municipal Code Amendment. Chapter 8.32 (Fireworks) of the Seaside Municipal Code is hereby deleted and replaced in its entirety with the following new Chapter 8.32 as follows:

## **Chapter 8.32**

### **FIREWORKS**

Sections:

8.32.010 Purpose.

8.32.020 Definitions.

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

8.32.040 Exception – Public displays and special events – Agricultural and wildlife fireworks – Model rockets.

8.32.050 Seizure of fireworks.

8.32.060 Police and fire department fireworks operation plan and after action report.

8.32.070 Manufacture of fireworks prohibited.

8.32.080 Administrative fines and penalties.

8.32.090 Concurrent authority.

8.32.100 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:

“Citation” means an administrative citation issued pursuant to the Seaside Municipal Code to remedy a violation of this section.

“Citee” means any person served with an administrative citation charging him or her as a responsible person for violation.

“City” means the city of Seaside.

“Code” means the city of Seaside Municipal Code.

“Code enforcement officer” or “CEO” means any employee or agent of the city of Seaside designated by the city council to enforce any provision of this code.

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

“Exempt fireworks” means 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.

“Fireworks” means 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.”

“Hearing officer” means the person appointed by the city manager or city attorney to serve as the hearing officer for administrative hearings hereunder.

“Person” means 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.

“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.

“Public display of fireworks” means 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.

“Responsible person” means 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 eighteen years, who knows or responsibly 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.

“Violation” or “violates” means any violation of any provision of this chapter.

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

Except as otherwise provided in this chapter, no person shall possess, sell, use, display, explode, store, 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 is either City sponsored or co-sponsored event or for which a special event permit has been issued pursuant to SMC 17.52.040(E)(2) and to which the general public is admitted.

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 Seizure of fireworks.**

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

**8.32.060 Police and fire department illegal fireworks operation plan and after action report.**

The City Council may require the City's police and fire departments to prepare and present either or both 1) an fireworks operation plan report and 2) after-action report, as they deem necessary and appropriate.

**8.32.070 Manufacture of fireworks prohibited.**

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

**8.32.080 Administrative fines and penalties.**

A. The maximum violation of this chapter shall be a misdemeanor unless otherwise set forth in state or federal law.

B. Any person or entity who possesses, uses, stores, sells, and/or displays safe and sane fireworks other than those permitted under this chapter are subject to an administrative fine, together with all costs of enforcement. Administrative fines shall be subject to the procedures established in Chapter 2.56 SMC, as such may be amended by the City Council from time to time or as set forth in state law.

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. 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 Sections 12500 through 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.

E. 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.

### **8.32.090 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.

### **8.32.100 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 lawful manner, including but not limited to Franchise Tax Board diversion programs, administrative collection or by a court of competent jurisdiction.

**SECTION 3.** Severability. If any section, subsection, sentence, clause phrase or portion of this Ordinance is for any reason, held to be invalid or unenforceable by a court of competent jurisdiction, then the remaining portions of this Ordinance shall nonetheless remain in full force and effect. The People of the City of Seaside, California, hereby declare that they would have adopted each section, subsection, sentence, clause, phrase, or portion of this Ordinance irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, or portions of this Ordinance be declared invalid or unenforceable.

**SECTION 4.** Election Required. This Ordinance shall not become effective unless and until a majority of City voters voting on this measure vote to approve it at the General Municipal Election to be held on November 5, 2024.

**SECTION 5.** Effective Date. This Ordinance shall go into effect ten (10) days after the date on which the election results are declared by the City Council.

**SECTION 6.** Execution. The Mayor is hereby authorized to attest to the adoption of this Ordinance by the voters of the City of Seaside by signing where indicated below. The City Clerk is authorized to publish this Ordinance in compliance with law.

**THE FOREGOING ORDINANCE was approved by the following vote of the People of the City of Seaside on November 5, 2024:**

YES:

NO:

**THE FOREGOING ORDINANCE was adopted by Declaration of the vote at the November 5, 2024, General Municipal Election by the City Council of the City of Seaside at a regular meeting thereof held on the \_\_\_\_\_ day of \_\_\_\_\_ 2024, by the following vote:**

AYES:	COUNCIL MEMBERS
NOES:	COUNCIL MEMBERS
ABSENT:	COUNCIL MEMBERS
ABSTAIN:	COUNCIL MEMBERS

APPROVED:

\_\_\_\_\_  
Ian N. Oglesby, Mayor

ATTEST:

\_\_\_\_\_  
Dominique L. Davis, City Clerk

APPROVED TO FORM:

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Sheri L. Damon, City Attorney