

ORDINANCE NO. 2021-01

AN ORDINANCE OF THE BOARD OF DIRECTORS OF THE OCEANO COMMUNITY SERVICES DISTRICT REPEALING AND REPLACING DISTRICT CODE 15.10 SALE OF FIREWORKS

BE IT RESOLVED, DETERMINED AND ORDERED, by the Board of Directors of the District as follows:

SECTION 1

15.10 – SALE OF FIREWORKS REPEALED AND REPLACED AS FOLLOWS:

15.10.010 Permit Required for Sale; Fee.

It is unlawful for any person to sell any "safe and sane" fireworks, as defined in Section 12529 and Section 12562 of the Health and Safety Code without first having applied for and received a permit therefor. The fee for a permit to sell such fireworks will be initially set at \$400 and increased 3% annually thereafter. No part of the fee will be refunded upon revocation of the permit. In addition, a \$500 refundable cleaning deposit must be submitted with the permit fee and will be refunded upon removal of the fireworks stand and associated debris to the satisfaction of the District.

15.10.020 Application for Permit.

Applications for a permit under this chapter must be made to the General Manager or General Manager's designee and must:

- (A) Be made in writing on a form supplied by the District and accompanied by a tender of the permit fee and cleaning deposit.
- (B) Be made after the second Tuesday in April of each year and before the last business day of May.
- (C) Describe by street address the proposed location of the fireworks stand for which the permit is requested.
- (D) Be accompanied by a general liability insurance policy of at least \$ 1,000,000, with the premium pre-paid, for a term not less than the term of the permit, naming the District, its officers, agents, and employees as additional named insured, and covering liability for monetary damages resulting from bodily injury, property damage or personal injury, including false arrest, libel, wrongful entry, discrimination, and assault.
- (E) Be accompanied by the organization's certified statement of non-profit status.
- (F) Be accompanied by an assurance in writing that the applicant, if permitted, will neither sell nor purvey, nor suffer or permit any person to sell or purvey at the permittee's fireworks stand any "dangerous fireworks" as defined in section 12505 of the Health and Safety Code.

(G) Be accompanied by a signed written approval of property owner that the fireworks stand will be allowed on the property owner's property and include a business telephone number at which the property owner may be reached.

(H) Include a designation of all non-profit associations or corporations to which the applicant intends to distribute the net proceeds of its fireworks sales and the communities (i.e., Oceano, Halcyon, Grover Beach, Arroyo Grande, etc.) and residents of those communities (i.e., youth, seniors, residents at large, visitors, businesses, etc.) that will benefit from the non-profit association or corporation through the net proceeds of its fireworks sales with at least 50% of the net proceeds distributed within Oceano/Halcyon.

(I) State the person and such person's daytime telephone number which the General Manager or General Manager's designee will notify regarding the granting or denial of the permit.

15.10.030 Operation of Stand.

(A) No person other than the permittee may operate the stand for which the permit is issued or share or otherwise participate in the profits of the operation of such stand unless otherwise approved by permit.

(B) No person other than the individuals who are members or volunteers on behalf of a permittee's organization may participate in the operation of the fireworks stand.

(C) No person may be paid or given any consideration for participating in the operation of a fireworks stand, except for security services.

(D) Fireworks may only be sold at the stand location set forth in the permit.

(E) Permittees must distribute to each customer any educational materials provided by the District.

(F) It is unlawful for any person to sell or otherwise distribute fireworks without complying with each of the following provisions:

(1) Fireworks stands need not comply with the provisions of the California Building Code provided that all stands are erected under the supervision of the Fire Chief (or designee) who will require that stands be constructed in a manner which will reasonably assure the safety of attendants and patrons.

(2) If in the judgment of the Fire Chief (or designee), the construction or the location of a stand, or the conduct of operations therein do not conform with the provisions of this Chapter, the Fire Chief (or designee) may order the stand immediately closed until such time as the stand does conform with the provisions of this Chapter.

(3) If the permittee has materially falsified any statement in the application or has failed to perform any agreement, assurance, or representation made in connection with the application, the Fire Chief (or designee) will revoke the permit and order the stand immediately closed and neither the permittee nor any successor to the permittee will be permitted under this Chapter during the next following year. Such decision may be immediately appealable in writing to the General Manager who will conduct an informal hearing at the earliest opportunity.

(4) The front of all stands will be completely enclosed from the counter to the roof with hardware wire cloth, the openings of which do not exceed one-fourth inch in size except for openings to permit delivery of merchandise to customers, which openings for delivery are not larger than twelve inches by eighteen inches in size and the location of which are approved by

the Fire Chief (or designee).

(5) No person will be allowed in the interior of the stand except those directly participating in its operation.

(6) No person under the age of eighteen years will be allowed to sell fireworks, work in any way, unload fireworks supplies, or otherwise be in the stand or involved in its operation.

(7) All merchandise will be stored or displayed at a safe distance from the front and side walls of the stand in accordance with the direction of the Fire Chief (or designee).

(8) No stand will be constructed which has a depth of more than twelve feet.

(9) Each stand more than twenty feet in length must have at least two exits; and each stand more than thirty feet in length must have at least three exits spaced approximately equally along the length of the stand; provided, that in no case will the distance between exits exceed twenty feet.

(10) Exit doors must swing in the direction of egress.

(11) Exits will be arranged so that there will be egress available in at least two directions from any place within the stand, which exits will be approximately diametrically opposed.

(12) The stand must be equipped with at least one fire extinguisher and one five-gallon pail of water at each exit. The fire extinguisher must be approved as to efficiency, adequacy, and safety by the Fire Chief (or designee).

(13) No stand will be located closer than 100 feet from any other stand.

(14) No stand will be located closer than ten feet from a property line, nor closer than thirty feet from any building, nor closer than ten feet from any structure other than a building.

(15) All weeds and combustible materials will be cleared for 50 feet surrounding the stand.

(16) No food, beverage, or merchandise other than fireworks may be sold in or within thirty feet surrounding the stand. The sale of fireworks may not begin before noon on the twenty-eighth of June and will cease at noon on the fifth day of July. Sales during this time period will be limited to 9:00 a.m. to 11:00 p.m. each day. Any permittee failing to observe these hours designated for sale may have their permit revoked or be ineligible for a permit in subsequent years.

(17) All unsold fireworks stock and associated litter from the stand will be removed from the stand location by noon on the seventh of July.

(18) The stand will be removed from its temporary location by noon on the seventh day of July.

(19) The permittee will also comply with all applicable State laws pertaining to the sale of fireworks and operation of the stand.

15.10.040 Number of Permits.

No association may receive more than one permit for fireworks sales during any one calendar year. No association may operate more than one fireworks stand under permit during any one calendar year. No more than four permits will be issued by the District in any calendar year. Permit holders from the preceding year will have the right of first refusal for one (1) permit. Remaining permits will be issued per Section 15.10.050.

15.10.050 Prerequisites to Issuance of Permit; Selection of Permittees; and Approval of Locations.

(A) No permit will be issued except to an applicant who is a non-profit association or corporation organized primarily for veteran, patriotic, welfare, district betterment, religious or charitable purposes, having on file with the District proof of non-profit status from either the IRS, California Secretary of State, or the State Attorney General; and having its principal and permanent meeting place within District boundaries; and having been organized and established in the District for a minimum of three years continuously preceding the filing of the application for the permit; and having three years continuously preceding the filing of the application for the permit, a track record of providing programs and/or services to residents of the District.

(B) If on the closing date for filing applications for permits there are more new applications than the number of available permits, the permittees will be selected by a drawing conducted by the General Manager or General Manager's designee.

(C) Prior to the installation of any stand for which a permit has been obtained, the General Manager or General Manager's designee will first submit the proposed location of each stand to the Fire Chief who has the authority to disapprove the location if in the Chief's opinion the location would pose a fire hazard.

15.10.060 Public Discharge Period.

Discharge of "safe and sane fireworks" may only occur from 10:00 a.m. to 10:00 p.m. on the fourth of July. No person under eighteen (18) years of age may possess or discharge "safe and sane fireworks" except when under the direct supervision of a person twenty-one (21) years of age or older.

15.10.070 Mandatory Meeting.

There will be a meeting in June each year. Attendance at this meeting is mandatory for the representatives of the permittee organizations. Safety practices, legal issues and explanation of the laws, rules and regulations will be discussed. Wholesale distributors, or their bona fide agents, must also be present at this meeting.

SECTION 2

This Ordinance will take effect and be in force thirty (30) days from the date of its passage, and before the expiration of fifteen (15) days after its passage, it will be posted in three public places with the names of the members of the Board of Directors voting for and against the same and will remain posted thereafter for at least one week.

INTRODUCED at a regular meeting of the Board of Directors held on the 24th day of February, 2021, and **PASSED, APPROVED and ADOPTED** by the Board of Directors of the Oceano Community Services District, this 10th day of March, 2021, by the following roll call vote, to wit:

AYES: President Austin, Vice President White, Director Replogle, Director Villa and Director Gibson.

NOES: None

ABSENT: None

ABSTAINING: None