

**ORDINANCE NO. 1166**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COACHELLA, CALIFORNIA, AMENDING COACHELLA MUNICIPAL CODE CHAPTER 8.32 REGARDING THE USE, SALE, POSSESSION, STORAGE, AND DISCHARGE OF FIREWORKS**

**WHEREAS**, the City of Coachella (“City”) Municipal Code chapter 8.32 regulates the sale, use, discharge, storage and possession of fireworks within the territorial limits of the City; and

**WHEREAS**, pursuant to the regulations contained in Chapter 8.32, the City currently permits certain non-profit organizations meeting prerequisite requirements defined by the Code to apply each year for a permit to sell “Safe and Sane Fireworks” between the twenty eighth of June and the fifth day of July each year (“Fourth of July Celebrations”); and

**WHEREAS**, the original intent of the City, in adopting Chapter 8.32, was to permit the sale of “Safe and Sane Fireworks,” as that term is defined in Health & Safety Code sections 12529 and 12652, pursuant to the rules and regulations contained in Chapter 8.32, and to prohibit the sale, possession, use, and discharge of any and all “Dangerous Fireworks” as that term is defined in Health & Safety Code section 12505 and section 12561; and

**WHEREAS**, despite the intent of Chapter 8.32, before, during and after Fourth of July Celebrations, the City of Coachella experiences increased firework related calls due to the unlawful use of Dangerous Fireworks; and

**WHEREAS**, the entire state of California has seen a dramatic increase in the number and intensity of fires over the past decade; and

**WHEREAS**, the continued sale, use, and discharge of illegal Dangerous Fireworks within the City further increases the hazardous risk of fires and strains the ability of Police and Fire Personnel to perform their duties before, after, and during Fourth of July Celebrations; and

**WHEREAS**, the City may enact an ordinance regulating fireworks within its jurisdiction that is compatible with the State Fireworks Law (Health & Safety Code, § 12500 *et seq.*); and

**WHEREAS**, due to the increased risk of fires and the minimal effect that the current regulations contained in Chapter 8.32 has had on the sale, possession, use, and discharge of Dangerous Fireworks within the City, the City desires to further clarify the prohibitions on the sale, possession, use, and discharge of Dangerous Fireworks; and

**WHEREAS**, the City wishes to adopt an Ordinance to establish authority for the issuance of administrative citations for unlawful activities related to the use of Dangerous Fireworks and Safe and Sane Fireworks; and

**WHEREAS**, the proposed changes to the City’s fireworks ordinance are intended to encourage and obtain compliance with the provisions of the City’s fireworks ordinance for the benefit and protection of the entire community and the health, welfare, and safety of its residents, visitors, and businesses, and

**WHEREAS**, because of the serious threat of fire or injury posed by the use of dangerous fireworks and the effect of such activities on the safety and the use and enjoyment of surrounding properties and to the public health, safety and general welfare, the proposed amendments to the City’s fireworks ordinance are intended to impose strict civil liability upon the violator, and each contiguous use, display and/or possession shall constitute a separate violation and is intended to be subject to a separate administrative fine; and

**WHEREAS**, the administrative fines authorized by this Ordinance are imposed under authority of Government Code Section 53069.4 and Health and Safety Code Section 12557.

**NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF COACHELLA, CALIFORNIA, DOES ORDAIN AS FOLLOWS:**

**SECTION 1.** The Recitals set forth above are true and correct and are incorporated into this Ordinance.

**SECTION 2.** Section 8.32.010 of the Code is hereby amended to read in its entirety as follows:

**“8.32.010 – Legislative intent.**

The provisions of this Chapter are intended to regulate the sale, discharge, use, possession, manufacture, and storage of fireworks within the boundaries of the City of Coachella in order to prevent fires which may result from the illegal and/or improper sale, discharge, use, possession, manufacture or storage of fireworks. It is the intent of this Chapter that the sale, use, discharge, and storage of “safe and sane” fireworks as defined by Section 12529 and Section 12652 of the California Health and Safety Code, within the territorial limits of the City of Coachella, during the time period beginning at noon on the twenty-eighth day of June and ending at noon on the fifth of July of each calendar year, shall be permitted solely in strict compliance with all regulations, prohibitions, and procedures provided for by this Chapter and any and all other applicable laws and regulations. It is further the intent of this Chapter to prohibit the sale, possession, use, manufacture, and discharge of Dangerous Fireworks, as that term is defined herein, within the territorial boundaries of the City of Coachella.”

**SECTION 3.** A new Section 8.32.020 entitled “Definitions” is hereby added to read in its entirety as follows:

**“8.32.020 – Definitions.**

‘Building Official’ shall mean the Building Official of the City of Coachella.

‘Director of Finance’ shall mean the Director of Finance of the City of Coachella.

‘Dangerous Fireworks’ shall have the meaning ascribed to that term by California Health and Safety Code sections 12505 and 12561.

‘Fireworks stand’ shall mean any building, counter, or other structure of a temporary nature used in the sale, offering for sale, or display for sale of safe and sane fireworks.

‘Person’ shall mean and include natural person(s), trusts, estates, firms, corporations, partnerships, associations, or other forms of business organizations or groups.

‘Qualifying Coachella Organization’ shall mean an organization that meets the requirements set forth in Section 8.32.060 of this Chapter.

‘Safe and Sane Fireworks’ shall have the meaning ascribed to that term by California Health and Safety Code sections 12529 and 12652.”

**SECTION 4.** Section 8.32.020 is hereby amended to read in its entirety as follows:

**“8.32.030 – ‘Safe and sane’ fireworks permitted.**

A. Except as otherwise provided by this Code, the possession, sale, use, display and discharge, within the city, of safe and sane fireworks shall be lawful only during that time period beginning at 12:00 noon on June 28 and ending at 12:00 p.m. on July 5 of that same year.

B. The director of finance and his/her designee is authorized to issue permits for the sale of safe and sane fireworks only in accordance with the procedures, regulations, and prohibitions established by this Chapter.

C. Except as provided in this Chapter, it shall be unlawful for any person or organization to sell safe and sane fireworks within the City without having first met the prerequisites for issuance of a fireworks permit contained in Section 8.32.060 of this Chapter and having applied for and having been issued a permit therefore from the director of finance or his/her designee.

D. No organization shall be granted more than one permit or operate more than one stand where fireworks are sold during any one calendar year.

E. An organization which has been granted a permit hereunder may enter into a participation agreement with one or more qualifying organizations to jointly sell fireworks, provided that such organizations shall assume jointly the responsibility for compliance with all city ordinances and regulations and that all participating organizations shall be listed as such on the permit.

F. The maximum number of permits that may be issued to organizations to sell fireworks within the territorial limits of the city in one calendar year shall not exceed one permit for every three thousand five hundred (3,500) residents of the city, or fraction thereof, based on the latest estimate of population of the city by the California Department of Finance or the U.S. Bureau of the Census.

G. If the number of applications for retail permits exceeds the number of permits available for issuance, the director of finance or his/her designee shall issue the permits according to the following three priorities:

1. First, to a qualifying Coachella organization as defined in this chapter, which is incorporated as a nonprofit corporation and which has obtained tax exempt status from the Internal Revenue Service and the franchise tax board;

2. Second, to a qualifying Coachella organization which was granted a permit hereunder during the preceding year and which complied with all of the requirements of this article and other applicable provisions of this code;

3. Third, to a qualifying Coachella organization selected by a random drawing as determined by the director of finance.

H. Permits for a qualifying Coachella organization that meets the qualifications set forth in 8.32.060(D) shall be limited to two permits. If more than two applications for retail permits are received, the finance director or designee shall select by random drawing two organizations.

I. Except as otherwise provided in this chapter, any violation of the provisions of this chapter by a permittee organization or its officers or members may be a basis for the denial of a fireworks permit in future years.”

**SECTION 5.** Section 8.32.070 is hereby amended to read in its entirety as follows:

**“Section 8.32.080 – Duration of fireworks sales.**

The sale of safe and sane fireworks shall not begin before noon on the twenty-eighth day of June and shall not continue after noon on the fifth day of July.”

**SECTION 6.** Section 8.32.090 is hereby amended to read in its entirety as follows:

**“Section 8.32.100 – Prohibitions.**

A. It is unlawful for any person to possess, use, discharge, manufacture or sell, within the territorial limits of the City of Coachella, any and all dangerous fireworks.

B. It is unlawful for any person to ignite, explode, project, or otherwise fire, use, or make use of any firework including, but not limited to, safe and sane fireworks, within twenty-five (25) feet of any residence, dwelling, or other structure.

C. It is unlawful for any person to ignite, explode, project, or otherwise fire or make use of any firework including, but not limited to, safe and sane fireworks, upon, over, or onto the property of another, without the property owner’s permission.

**SECTION 7.** A Section entitled “Administrative Fines” is hereby added in its entirety as Section 8.32.140 to read as follows:

**“Section 8.32.140-Administrative Fines**

(A) Purpose: This Section authorizes the imposition of administrative fines on any person who violates any provision of this ordinance in order to encourage and obtain compliance with the provisions of this Chapter for the benefit and protection of the entire community. This Section governs the imposition, enforcement, collection, and administrative review of all administrative fines related to: the possession, use, storage, sale and/or display of dangerous fireworks, with the exception of a pyrotechnic licensee when operating pursuant to that license; and the use of safe and sane fireworks on or at dates, times and/or locations other than those permitted by this Chapter. Said administrative fines are imposed under authority of Government Code section 53069.4, Health and Safety Code section 12557, and the police power of the City.

(1) The issuance of an administrative fine to any person pursuant to this Section constitutes but one remedy of the City to redress violations of this Code by any person. Nothing contained in this Section is intended to or shall be construed as limiting the authority of the City to employ any other remedy, civil or criminal, to redress any violation of this code by any person, which the City may otherwise pursue.

(2) The imposition of fines related to dangerous fireworks under this Chapter shall be limited to persons who possess, sell, use and/or display, or the seizure of, twenty five (25) pounds or less (gross weight) of such dangerous fireworks.

(3) Fines collected pursuant to this Section related to dangerous fireworks shall be subject to Health and Safety Code section 12726, which section provides that sixty five (65) percent of all administrative fines or penalties collected by the City shall be forwarded to the Controller of the State of California for deposit in the State Fire Marshal Fireworks Enforcement and Disposal Fund, as described in Health and Safety Code section 12728.

(4) 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 Chapter 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 Section 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.

(B) Issuance of Administrative Citations

(1) Whenever a City Compliance Officer determines that a violation of this Chapter has occurred, the Compliance Officer may issue an administrative citation on a City-approved form listing the code violation(s) and the amount of the administrative fine required to be paid by the responsible person(s) in accordance with the provisions of this chapter.

(2) Each administrative citation issued under authority of this Section shall contain all of the information listed in Section 3.20.040 of this Code.

(C) Administrative Fines

(1) Each person who violates any provision of this Chapter as it relates to the possession, use, storage, sale and/or display of dangerous fireworks shall be subject to the imposition and payment of an administrative fine or fines as provided below:

Number of offense in 1 year period	Amount of Administrative Penalty	Disposal Charge	Total Amount of Penalty plus Late Charge
First	\$1,000.00	\$250.00	\$1,250.00
Second	\$2,000.00	\$500.00	\$2,500.00
Third	\$3,000.00	\$1,000.00	\$4,000.00

(2) Each person who uses safe and sane fireworks on or at dates, times and/or locations other than those permitted by this Chapter shall be subject to the imposition and payment of an administrative fine or fines as provided below:

Number of Offense in 1 year period	Amount of Administrative Penalty	Disposal Charge	Total Amount of Penalty plus Late Charge
First	\$250.00	\$75.00	\$325.00
Second	\$500.00	\$150.00	\$650.00
Third	\$750.00	\$300.00	\$1,050.00

(D) Administrative Appeal: Any person issued an administrative fine under authority of this Section shall be entitled to an administrative appeal hearing in accordance with the procedures set forth in Chapters 3.20 and 3.28 of this Code.”

**SECTION 8.** If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance for any reason is held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance, and each section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.

**SECTION 9.** The Mayor shall sign this Ordinance and the City Clerk shall cause the same to be published within fifteen (15) days after its passage at least once, in a newspaper of general circulation, published and circulated in the City of Coachella, California. This Ordinance of the City of Coachella shall be effective thirty (30) days after the date of its passage.

**PASSED, APPROVED and ADOPTED** this 22<sup>nd</sup> day of July 2020.

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Steven A. Hernandez  
Mayor

**ATTEST:**

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Angela M. Zepeda  
City Clerk



**APPROVED AS TO FORM:**

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Carlos Campos  
City Attorney

STATE OF CALIFORNIA            )  
COUNTY OF RIVERSIDE        ) ss.  
CITY OF COACHELLA            )

**I HEREBY CERTIFY** that the foregoing Ordinance No. 1164 was duly and regularly introduced at a meeting of the City Council on the 22<sup>nd</sup> day of July 2020, and that thereafter the said ordinance was duly passed and adopted at a regular meeting of the City Council on the \_\_\_\_\_ day of \_\_\_\_\_ 2020.

AYES:

NOES:

ABSENT:

ABSTAIN:

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Andrea J. Carranza, MMC  
Deputy City Clerk