

**AGENDA SEASIDE CITY COUNCIL MEETING  
JULY 9, 2018 7:00 PM**

1. CALL TO ORDER
2. PLEDGE OF ALLEGIANCE
3. ROLL CALL
4. APPROVAL OF AGENDA
5. PROCLAMATION - NATIONAL NIGHT OUT, Dave Ham
6. COMMENTS – PUBLIC – (please keep speaking time to four minutes)
7. DECLARATION OF POTENTIAL CONFLICT OF INTEREST
8. CONSENT AGENDA
  - a) PAYMENT OF THE BILLS - \$759,409.96
  - b) APPROVAL OF MINUTES - June 25, 2018
9. UNFINISHED BUSINESS:
  - a. ORDINANCE #2018-09 - AN ORDINANCE OF THE CITY OF SEASIDE, OREGON, AMENDING THE ZONING ORDINANCE TEXT IN CODE OF SEASIDE ORDINANCE CHAPTER 158 ALLOWING ACCESSORY DWELLING UNITS - Kevin Cupples
    - OPEN PUBLIC COMMENTS
    - CLOSE PUBLIC COMMENTS
    - COUNCIL COMMENTS
    - MOTION FOR SECOND READING BY TITLE ONLY – ALL IN FAVOR AND OPPOSED
  - b. VACANCY - CITY TREE BOARD  
AIRPORT COMMITTEE  
PARKS ADVISORY COMMITTEE  
COMMUNITY CENTER COMMISSION
10. NEW BUSINESS:
  - a) PUBLIC HEARING - ORDINANCE #2018-10 - AN ORDINANCE GRANTING CHARTER COMMUNICATION A FRANCHISE TO PROVIDE SERVICES, FACILITIES, AND EQUIPMENT TO OPERATE AND MAINTAIN CONSTRUCTION AND OPERATION OF A CABLE NETWORK WITHIN THE CITY OF SEASIDE, OREGON.
    - OPEN PUBLIC HEARING
    - CLOSE PUBLIC HEARING
    - COUNCIL COMMENTS
    - MOTION FOR FIRST READING BY TITLE ONLY – ALL IN FAVOR AND OPPOSED
    - MOTION FOR SECOND READING BY TITLE ONLY – ALL IN FAVOR AND OPPOSED

11. COMMENTS FROM THE CITY STAFF
  
12. COMMENTS FROM THE COUNCIL
  
13. ADJOURNMENT

**Complete copies of the Current Council meeting Agenda Packets can be viewed at: *Seaside Public Library and Seaside City Hall. The Agendas and Minutes can be viewed on our website at [www.cityofseaside.us](http://www.cityofseaside.us).***

**All meetings other than executive sessions are open to the public. When appropriate, any public member desiring to address the Council may be recognized by the presiding officer. Remarks are limited to the question under discussion except during public comment. This meeting is handicapped accessible. Please let us know at 503-738-5511 if you will need any special accommodation to participate in this meeting.**



# CITY of SEASIDE

OREGON'S  
FAMOUS  
ALL-YEAR  
RESORT

989 BROADWAY  
SEASIDE, OREGON 97138  
(503) 738-5511

## PROCLAMATION

*Whereas*, the National Association of Town Watch (NATW) is sponsoring a unique, nationwide crime, drug and violence prevention program on August 7, 2018 entitled "National Night Out"; and

*Whereas*, the "35<sup>th</sup> Annual National Night Out" provides a unique opportunity for the City of Seaside to join forces with thousands of other communities across the country in promoting cooperative, police-community crime prevention efforts; and

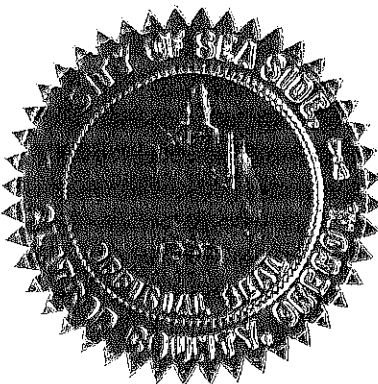
*Whereas*, the City of Seaside plays a vital role in assisting the Seaside Police Department through joint crime, drug and violence prevention effort in the City of Seaside and is supporting "National Night Out 2018" locally; and

*Whereas*, it is essential that all citizens of Seaside be aware of the importance of crime prevention programs and impact that their participation can have on reducing crime, drugs and violence in Seaside; and

*Whereas*, police-community partnerships, neighborhood safety, awareness and cooperation are important themes of the "National Night Out" program;

**NOW, THEREFORE**, I, Jay Barber, Mayor of the City of Seaside, in the State of Oregon, do hereby proclaim Tuesday, August 7, 2018 as **National Night Out** in Seaside, and urge all citizens to join in this observance.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the City of Seaside to be affixed this 9<sup>th</sup> day of July, 2018.



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JAY BARBER, MAYOR

## ORDINANCE NO. 2018-09

### AN ORDINANCE OF THE CITY OF SEASIDE, OREGON, AMENDING THE ZONING ORDINANCE TEXT IN CODE OF SEASIDE ORDINANCE CHAPTER 158 ALLOWING ACCESSORY DWELLING UNITS.

**WHEREAS**, the State Legislature recently passed SB 1051 requiring all cities with a population over 2,500 to allow accessory dwelling units (ADUs) in an effort to address a housing shortage throughout the State of Oregon, and

**WHEREAS**, the Planning Commission and City Council discussed their intent to initiate amending Seaside's Zoning Ordinance to address accessory dwelling units (ADUs) within all residential zones that permit detached single family dwellings, establish a definition for the use, and create development provision applicable to the newly established use during a joint work session on April 30, 2018, and

**WHEREAS**, the Planning Commission conducted a duly advertised public hearing on June 5, 2018 to take public testimony on the draft amendment and continued the hearing to June 19, 2018 to provide additional time to consider the draft ADU provisions and provide an additional opportunity to take public testimony, and

**WHEREAS**, following the close of public comment and a lengthy deliberation concerning the final wording in the draft amendment, the Planning Commission recommended the City Council approve zone code amendment 18-042ZCA based on the staff report, public testimony, and the modified ADU provisions supported by the Commissioners, and

**WHEREAS**, the City Council held their own public hearing to take public testimony on the draft amendment and review the Commission's recommendation on zone code amendment 18-042ZCA during their meeting on June 25, 2018, and ultimately approved the final ADU provisions based on public testimony, the Commission's recommendation, and the Council's Final Decision, which is adopted by reference hereto.

### **NOW, THEREFORE, THE CITY OF SEASIDE ORDAINS AS FOLLOWS:**

**SECTION 1.** Amend Seaside Zoning Ordinance definition Section 1.030 to include the following:

**Accessory Dwelling Unit (ADU): An interior, attached or detached residential structure that is used in connection with or that is accessory to a single-family dwelling. Unlike a guesthouse, an ADU will include a kitchen and function as an independent dwelling unit.**

**SECTION 2.** Amend Section 3.022 Outright Uses Permitted in the R-1 Low Density Residential Zone to include the following:

**7. Accessory Dwelling Unit (see general and specific provisions in Article 4)**

**SECTION 3.** Amend Section 3.032 Outright Uses Permitted in the R-2 Medium Density Residential Zone to include the following:

**12. Accessory Dwelling Unit (see general and specific provisions in Article 4)**

**SECTION 4.** Amend Section 3.042 Outright Uses Permitted in the R-3 High Density Residential Zone to include the following:

**9. Accessory Dwelling Unit (see general and specific provisions in Article 4)**

**SECTION 5.** Amend Section 3.048 Outright Uses Permitted in the R-R Resort Residential Zone to include the following:

**10. Accessory Dwelling Unit (see general and specific provisions in Article 4)**

**SECTION 6.** Amend Section 3.054 Outright Uses Permitted in the R-C Residential/Commercial Zone to include the following:

**5. Accessory Dwelling Unit (see general and specific provisions in Article 4)**

**SECTION 7.** Amend Section 3.192 Outright Uses Permitted in the SR Suburban Residential Zone to include the following:

**8. Accessory Dwelling Unit (see general and specific provisions in Article 4)**

**SECTION 8.** Amend Article 4 by creating the following subsection:

**Section 4.018 Accessory Dwelling Units (ADUs)**

An interior or attached ADU will be considered part of the primary dwelling and it will not be subtracted from the total square footage allowed for accessory structures, but the total floor area for any ADU shall not exceed 525 square feet without approval of a conditional use by the Planning Commission, but in no case shall the total square footage exceed 800 square feet.

ADUs must also conform to the following additional limitations.

1. Detached ADUs cannot exceed one story unless they are incorporated into the second story of a detached garage.
2. One additional off street parking space must be provided in addition to the two spaces provided for the single family dwelling the ADU is accessory to and the additional space must be accessible without moving vehicles in the other two spaces.
3. ADUs are not subject to the limitations in Section 4.080; however, a detached ADU must be set back a minimum of five feet from the primary dwelling.
4. ADUs are not subject to the dwelling unit density in residential zones but they are only allowed on lots that meet the minimum lot size in the zone.
5. ADUs, and the single family dwelling it is accessory to, cannot be used for transient rental such as a vacation rental dwelling (VRD).

**SECTION 9.** The Seaside City Council did hold a public hearing on June 25, 2018, during which the public was given an opportunity to testify in favor and in opposition to the amendments to the Seaside Zoning Ordinance.

**SECTION 10.** The City Council hereby find there is sufficient justification to approve the amendments to the Seaside Zoning Ordinance (file reference 18-042ZCA) based on the Commission's recommendation, and the Council's Final Order

**ADOPTED** by the City Council of the City of Seaside on this \_\_\_\_ day of \_\_\_\_\_, 2018, by the following roll call vote:

YEAS:  
NAYS:  
ABSTAIN:  
ABSENT:

**SUBMITTED** to and **APPROVED** by the Mayor on this \_\_\_\_ day of \_\_\_\_\_, 2018.

\_\_\_\_\_  
JAY BARBER, MAYOR

ATTEST:

\_\_\_\_\_  
Mark J. Winstanley, City Manager

## CITY OF SEASIDE MEMORANDUM

**To:** Mayor & City Council  
**From:** Planning Director, Kevin Cupples  
**Date:** June 25, 2018  
**Applicant:** City of Seaside, 989 Broadway, Seaside, OR 97138  
**Subject:** 18-042ZCA / Text Amendment Allowing ADUs in All Residential Zones Allowing Detached Single Family Dwellings

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### Request Summary:

The City of Seaside is considering a text amendment that will permit accessory dwelling units (ADUs) within all residential zones that allow detached single family dwellings as a permitted use. Although the Planning Commission has discussed allowing ADUs in the past, the passage of Senate Bill 1051 required all cities with a population over 2,500 to allow them in an effort to address a housing shortage throughout the State of Oregon.

The City of Seaside Zoning Ordinance currently allows guest houses, without kitchens, as an accessory use in residential zones; however, the new ADU provisions will allow a kitchen and establish specific requirements that will regulate the new use.

Staff developed draft language for the Seaside Zoning Ordinance that would define ADUs based on SB 1051, list the use in each residential zone that permits a detached single family dwelling, and establish development standards applicable to the use. In accordance with the Ordinance, the Planning Commission held a public hearing to take public testimony and review the proposed text amendment prior to making a recommendation to the City Council.

In accordance Article 9 of the Seaside Zoning Ordinance, the City Council can make a final decision on proposed amendment after holding a public hearing and considering the recommendation by the Seaside Planning Commission.

### Planning Commission Testimony Summary:

The Planning Commission heard testimony concerning the proposed ADU ordinance amendment prior to making their recommendation. Testimony in favor of modifying the initial language in proposed amendment was offered by Max Richie during the public hearing on June 5, 2018.

Following public comment and the Commissioners discussion, the hearing was continued to June 19, 2018, to provide additional time to consider the draft ADU provisions and provide an additional opportunity to take public testimony. Although no new testimony was offered during this meeting, city staff did provide some additional information concerning the size and potential development of ADUs within the built environment.

**Planning Commission Recommendation:**

After closing the public hearing, considering the testimony and additional information, the Commissioners discussed a number of potential modifications to the initial draft ordinance language before making their final recommendation, reflected in Ordinance 2018-09 (attached). Much of the Commissioner's discussion centered around the appropriate size limitation for ADUs. They ultimately agreed that limiting the size to 525 square feet of floor area was appropriate at this initial phase of allowing ADUs with an option of requesting a larger floor area subject to their review of a conditional use.

**Final Recommended City Council Action:**

Conduct a public hearing to take testimony on the proposed ordinance amendment. Following testimony and review of the Commission's recommended text amendment, determine if any additional modifications to the ordinance language is justified.

If the proposed ADU amendments are deemed appropriate, make a motion that Ordinance No. 2018-09 be read "by title only." This ordinance is the document that will formally recognize the Council's approval of the proposed text amendment.

Following the first reading, a motion for a second reading "by title only" can be made. That would allow the third reading and final adoption to then take place during the next council meeting scheduled on July 9, 2018.

**Attachments:**

Ordinance No. 2018-09

Planning Commission's Recommendation

Written Testimony & Information Provided by Staff

Max Ritchie  
684 10th St  
PO Box 2772  
Gearhart, OR 97138

5/29/18

City of Seaside Planning Commission  
City of Seaside City Council  
989 Broadway  
Seaside, OR 97138

Commissioners and City Council Members:

As the owner of several rental properties in Seaside and Gearhart, the most common tenants and prospective tenants that I get are younger couples who work locally or single retirees. Last week I had a vacancy for a studio in Gearhart and immediately got 8 responses from people in those demographics who have possessions and need a primary home. The preliminary sizing model that has been created for Accessory Dwelling Units (ADUs) would limit these demographics from renting such a unit, as a 5000 ft lot in an R2 zone would only allow a 500 sq ft ADU, which is not a sufficient size for people who need a primary home with their own furniture and possessions.

I have done a little research into how other municipalities handle size restrictions that I have attached for your review. Portland and Salem who have housing shortages on par with Seaside, allow ADUs to be sized at 75% of the primary structure or 800 square feet, whichever is less. Many of the others allow ADUs to be sized at 50% of the primary structure, not exceeding 800 square feet. Given the housing shortage in Seaside and the surrounding areas, I would appreciate your consideration to change your criteria for sizing ADUs from 10% of lot size to 50% of primary structure size or 800 square feet, whichever is less, while maintaining setback and parking requirements. This would allow two people to live in a large studio or small 1 bedroom ADU in a R2 zone, and help offset the local housing need.

Sincerely,

Max Ritchie





Random Potential ADU Example Block







P = Potential ADU  
Ø = Limited or No Potential  
V = Vacant - SFD okay

**PLANNING COMMISSION RECOMMENDATION**  
**Zone Code Amendment 18-042: Accessory Dwelling Units**

After considering public testimony, the Planning Commission recommended the following City Council action:

**Recommended Decision:** Approval Zone Code Amendment 18-042ZCA: A proposed ordinance amendment by the City of Seaside to allow accessory dwelling units (ADUs) within all residential zones that permit detached single family dwellings. In addition to adding the use to each residential zone, the amendment will also establish a definition for the use and create development provision applicable to the newly established accessory use.

This recommendation is supported by the Commission's adopted findings, justification statements, and conclusions.

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**DECISION CRITERIA, JUSTIFICATION, FINDINGS, & CONCLUSIONS:**

The following is a list of the decision criteria applicable to the request. Each of the criteria is followed by findings or justification statements adopted by the Planning Commission to support their conclusions and final recommendation. Their adopted information is being forwarded to the City Council to support the Council's final decision.

Although Article 9 in the City of Seaside Zoning Ordinance does not identify specific standards or criteria which apply to all text amendments, at a minimum, the following criteria should be addressed:

**DECISION CRITERIA # 1: The proposed text amendment to the City of Seaside Zoning Ordinance is consistent with the Comprehensive Plan and it will maintain the Plan's compliance with the State Law & the Statewide Planning Goals.**

**FINDINGS & JUSTIFICATION STATEMENTS:**

1. Published Notice Request Summary: 18-042ZCA – A proposed ordinance amendment by the City of Seaside to allow accessory dwelling units (ADUs) within all residential zones that permit detached single family dwellings. In addition to adding the use to each residential zone, the amendment will also establish a definition for the use and create development provision applicable the newly established accessory use. The Planning Commission will hear testimony concerning the proposed amendments and ultimately make a recommendation to the City Council.

2. The City of Seaside Comprehensive Plan and Zoning Ordinance must periodically be amended in order to comply with changes in State Law.

The State Legislature recently passed SB 1051 that requires all cities with a population over 2,500 to allow accessory dwelling units (ADUs) in an effort to address a housing shortage throughout the State of Oregon. SB 1051 Section 6 amended ORS 197.312 to include the following provisions:

**(5)(a) A city with a population greater than 2,500 or a county with a population greater than 15,000 shall allow in areas zoned for detached single-family dwellings the development of at least one accessory dwelling unit for each detached single-family dwelling, subject to reasonable local regulations relating to siting and design.**

**(b) As used in this subsection, "accessory dwelling unit" means an interior, attached or detached residential structure that is used in connection with or that is accessory to a single-family dwelling.**

3. The Planning Commission and City Council have discussed the potential amendment to the City's Zoning Ordinance. The Planning Commission has proposed the following changes in order to comply with the new provisions in State Law that will become effective on July 1, 2018.

**Amend definition Section 1.030 to include the following:**

**Accessory Dwelling Unit (ADU):** An interior, attached or detached residential structure that is used in connection with or that is accessory to a single-family dwelling. Unlike a guesthouse, an ADU will include a kitchen and function as an independent dwelling unit.

**Amend Section 3.022 Outright Uses Permitted in the R-1 Low Density Residential Zone to include the following:**

**7. Accessory Dwelling Unit (see general and specific provisions in Article 4)**

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**Amend Section 3.192 Outright Uses Permitted in the SR Suburban Residential Zone to include the following:**

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Amend Article 4 by creating the following subsection:

**Section 4.018 Accessory Dwelling Units (ADUs)**

**An interior or attached ADU will be considered part of the primary dwelling and it will not be subtracted from the total square footage allowed for accessory structures, but the total floor area for any ADU shall not exceed 525 10% of the total lot size or 800 square feet, whichever is less without approval of a conditional use by the Planning Commission.**

ADUs must also conform to the following additional limitations.

1. Detached ADUs cannot exceed one story unless they are incorporated into the second story of a detached garage.
  2. One additional off street parking space must be provided in addition to the two spaces provided for the single family dwelling the ADU is accessory to and the additional space must be accessible without moving vehicles in the other two spaces.
  3. ADUs are not subject to the limitations in Section 4.080; however, a detached ADU must be set back a minimum of five feet from the primary dwelling.
  4. ADUs are not subject to the dwelling unit density in residential zones but they are only allowed on lots that meet the minimum lot size in the zone.
  5. ADUs, and the single family dwelling it is accessory to, cannot be used for transient rental such as a vacation rental dwelling (VRD).
4. The Planning Commission believes Seaside should take a conservative approach to allowing ADUs in accordance with the new State Law. Although they all know there is a need for additional rental housing, the Commissioners believe Seaside should approach ADUs with deference to all those property owners that are accustomed to our current zoning restrictions. Over time, additional latitude could be incorporated into the ordinance if necessary.
5. The Commissioners specifically limited transient rental use of properties with ADUs in an effort to promote their intended purpose; increasing the amount of available housing for local residents. They did not wish to promote further loss of housing for local residents by creating an avenue whereby an ADU would be developed for use as a second home while maintaining a vacation rental in the primary dwelling or vice-versa.
6. The size of the ADUs was limited in order to justify the limited parking that was being required for the use and more closely follow the current limitation of the current zoning. ADUs are intended to be small scale accommodations that will provide additional dwelling options. It is not intended to allow full scale houses or duplexes in zones that would not allow them previously. Larger scale houses or duplexes will still be an option in residential zones based on the current development standards and the use provisions within a particular zone.

7. Written testimony concerning the draft ADU provisions was submitted. In summary, the individual believes the floor area limitation could be increased in an effort to potentially allow for larger ADUs in keeping with the provisions adopted by other jurisdictions. The written comments are attached for the Commission's consideration.

**CONCLUSION TO CRITERIA #1:**

The proposed text in finding 3 will not conflict with the provisions in the City's Comprehensive Plan or impact the Plan's compliance with Statewide Planning Goals. The requested amendment will allow for accessory dwelling units (ADUs) in accordance with State Law. Furthermore, it will provide additional small scale housing options for local residents.

**FINAL RECOMMENDATION**

Recommend the City Council approve the text amendment identified in finding 3. This recommendation can be supported by the Commission's adopted findings, justification statements, conclusions.

**Attachments:** Submitted Written Testimony & Information Provided by Staff



## **SEASIDE CITY TREE BOARD**

The purpose of the City Tree Board is to study, investigate, and develop and/or update annually, a written plan for the care, preservation, pruning, planting, replanting, removal or disposition of trees in parks, along streets, and in other public areas. The Tree Board, when requested by the City Council, shall consider, investigate, make findings, report and recommend upon any special matter or question coming within the scope of its duties and responsibilities,

- (1) Develop criteria for city staff and/or contractors to apply in making decisions entrusted to staff and/or contractor discretion,
- (2) Designate Heritage Trees on public and private lands within the city,
- (3) Promote the planting and proper maintenance of trees through special events including an annual local celebration of Arbor Day, and
- (4) Obtain the annual Tree City USA designation by the National Arbor Day Foundation.

The Board consists of five members, appointed by the City Council for a three-year term, and who are residents, or owners or employees of businesses within the city limit.

The City Tree Board shall schedule meetings as needed and elect a chairperson and a vice-chairperson. No more than 3 unexcused absences allowed in a calendar year.

Tree Board members serve without salary or compensation of any nature.

## **COMMITTEE/COMMISSION APPOINTMENT**

- 1. Date Council Notified:**                      **June 25, 2018**

**Name:**    **Ann Tierney-Ornie**

**Commission/Committee:**                      **City Tree Board Committee**

**Resignation Date:**                              **N/A**

**Term Expiration Date:**                        **Tierney-Ornie - June 30, 2018**

**Wants to be considered again:**              **No**
  
- 2. Applicants:**
  
- 3. Nominations:**
  
- 4. Appointment:**



# CITY of SEASIDE

OREGON'S  
FAMOUS  
ALL-YEAR  
RESORT

989 BROADWAY  
SEASIDE, OREGON 97138  
(503) 738-5511

## CITY TREE BOARD

Term of Office: 3 years

Number of Members: 5

<u>NAME</u>	<u>ADDRESS</u>	<u>PHONE</u>	<u>TERM EXPIRES</u>
VACANCY (TIERNEY-ORNIE)			6/30/2018
JOHN CARTER	PO BOX 679	738-4387	6/30/2019
VINEETA LOWER	815 6 <sup>TH</sup> AVENUE	503-621-6588	6/30/2020
PAM FLEMING	1255 AVENUE 'B'	738-5637	6/30/2020
ARNIE OLSEN	PO BOX 645	717-5745	6/30/2021
DALE MCDOWELL	1387 AVENUE 'U'	738-5112	<b>STAFF REPRESENTATIVE</b>

## **SEASIDE AIRPORT COMMITTEE**

The purpose of the Seaside Airport Committee is to act as an advisory body to the City Council, the City Manager, and the Public Works Director/City Engineer regarding issues concerning the Seaside Public Airport.

The committee consist of the following permanent members: the Public Works Director/City Engineer (or designee), a member of the Seaside City Council, a member of the Gearhart City Council, and six (6) non-permanent citizen members, who are not employees of the City, and at least four (4) of the non-permanent citizens shall reside within the City limits who shall serve as members-at-large.

The citizen members of the committee shall be selected from, but are not limited to, members of the following groups: persons with a demonstrated interest in public airport, educators, private businesspersons, persons with a diversity of ethnic and cultural affiliations, and persons of diverse economic backgrounds and interests.

The members shall serve without salary or compensation of any nature.

All members shall be appointed by the City Council and shall serve for a term of three years. However, three of the first non-permanent members shall be appointed for a term of one year, two years, and three years respectively. As those terms expire, the vacancy will be filled for three-year terms in each case.

Each year, at the first Committee meeting in January, the members shall appoint one of their members as Chairperson and one as Vice-Chairperson. One of the Committee members will serve as Secretary. Minutes of all meetings will be filed with the City Council.

The Committee shall hold a regular meeting at least once each month of the calendar year. The meetings shall be open to the public. Any person appointed by the City Council to serve on this committee who misses three or more regularly scheduled meetings during a 12 month period shall be notified by letter that the position must be vacated. The individual may appeal the decision to the City Council. ( A 12 month period is defined as beginning in January of each calendar year.)

## COMMITTEE/COMMISSION APPOINTMENT

1. **Date Council Notified:** February 12, 2018  
  
**Name:** Dianne Widdop  
Steve Phillips  
  
**Commission/Committee:** Seaside Airport Committee  
  
**Resignation Date:** Widdop - Not on Gearhart City Council  
Phillips - Has not been able to attend meetings  
  
**Term Expiration Date:** June 30, 2018  
  
**Wants to be considered again:** N/A
2. **Applicants:**
3. **Nominations:**
4. **Appointment:**



# CITY of SEASIDE

OREGON'S  
FAMOUS  
ALL-YEAR  
RESORT

989 BROADWAY  
SEASIDE, OREGON 97138  
(503) 738-5511

## AIRPORT COMMITTEE

Term of Office: 3 years

Number of Members: 9

<u>NAME</u>	<u>ADDRESS</u>	<u>PHONE</u>	<u>TERM EXPIRES</u>
VACANCY (WIDDOP)			6/30/2018
VACANCY (PHILLIPS)			6/30/2018
TERI CARPENTER	220 AVENUE 'U'	425-246-9962	6/30/2019
TRACY MACDONALD	451 HILLSIDE LOOP	739-2269	6/30/2019
RANDALL HENDERSON*	89066 OCEAN DRIVE WARRENTON, 97146	503-577-6153	6/30/2020
ROY BENNETT	2026 FERNWOOD ST.	738-4102	6/30/2020
BRUCE FRANCIS	90250 STONE LINE DR. WARRENTON, 97146	440-0033	6/30/2021
DALE MCDOWELL	1387 AVENUE 'U'	738-5112	Public Works
RANDY FRANK	454 HIGHLAND DR.	440-3090	City Council

\*Chair

## **SEASIDE PARKS ADVISORY COMMITTEE**

The purpose of the Seaside Parks Advisory Committee is to act as an advisory body to the City Council, the City Manager, and the Public Works Director regarding issues concerning the Seaside Parks.

The committee shall consist of seven members who are not officials or employees of the City and who will be appointed by the City Council. A minimum of six members shall reside within the city limits, and a maximum of one member may reside within the Urban Growth Boundary. No more than two members shall be engaged in the same kind of occupation, business, trade or profession. The Mayor shall appoint one member of the City Council as Council liaison, and the City Manager or his designee, shall be the Staff liaison to the Committee.

The members shall serve without salary or compensation of any nature.

All members shall be appointed by the City Council and shall serve for a term of three years. The initial terms will be: two members shall be appointed for a term of one year, two members for two years, and three members for three years. As those terms expire, all vacancies will be filled for three year terms.

Each year, at the first Committee meeting in January, the members shall appoint one of their members as Chairperson and one as Vice-Chairperson. One of the Committee members will serve as Secretary. Minutes of all meetings will be filed with the City Council.

The Committee shall hold a regular meeting at least once each month of the calendar year. The meetings shall be open to the public. Any person appointed by the City Council to serve on this committee who misses three or more regularly scheduled meetings during a 12 month period shall be notified by letter that the position must be vacated. The individual may appeal the decision to the City Council. ( A 12 month period is defined as beginning in January of each calendar year.)

## COMMITTEE/COMMISSION APPOINTMENT

1. **Date Council Notified:** **October 9, 2017**  
  
**Name:** Chris Quackenbush  
Steven Phillips  
  
**Commission/Committee:** **Parks Advisory Committee**  
  
**Resignation Date:** **Quackenbush - Sept. 20, 2017**  
**Phillips - Sept. 25, 2017**  
  
**Term Expiration Date:** **Quackenbush - March 31, 2019**  
**Phillips - March 31, 2019**  
  
**Wants to be considered again:** **Quackenbush - No**  
**Phillips - No**
  
2. **Applicants:**  
Pam Bierly
  
3. **Nominations:**
  
4. **Appointment:**



**Please Note: It is Council policy that applicants must be a city or urban growth boundary resident, business owner or employee of a business for at least one year, depending on committee/commission residency requirements.**

### CITY OF SEASIDE

Interest Form for Committee/Commission/Board Vacancies

PLEASE RETURN TO CITY HALL BY: \_\_\_\_\_

NAME Bierly Pam PHONE 503/738-8107  
Last First

ADDRESS 120 12<sup>th</sup> Ave Seaside

MAIL ADDRESS (DIFFERENT THEN ABOVE) \_\_\_\_\_

BUSINESS ADDRESS (IF APPLICABLE) \_\_\_\_\_

EMAIL ADDRESS seagull@seasurf.net

LENGTH OF TIME IN SEASIDE 38 yrs ARE YOU A REGISTERED VOTER IN SEASIDE: Yes  No

OCCUPATION disability caregiver

PAST OCCUPATIONS retired teacher, Knappa 26 yrs.

List committee/commissions on which you would like to serve: Parks

List committee/commissions you are currently appointed to: none

List fields in which you have interest or ability: education preservation of things we love about Seaside  
thinking of ideas to improve what we have

List employment and volunteer activities, which may relate to service on committee/commissions:  
past: Seaside Aquarium Discovery Program director  
Board Haystack Rock AP  
Seaside Parks sub committees

List skills and special knowledge that you may have acquired from these activities:  
people skills  
a fair amount of local outdoor skills, opportunities  
programming  
history of local programs

Have you ever been convicted, pled guilty or pled "no contest" to any crime, offense, or major traffic violation? Yes ( ) No (X) If yes, what offense? \_\_\_\_\_

When? \_\_\_\_\_ Please explain: \_\_\_\_\_

Please list 3 references including an employer or supervisor, and people that have known you for at least 2 years. (No City Council Members, Please)

NAME	RELATIONSHIP	ADDRESS	PHONE
<u>Keith Chandler</u>	<u>former boss</u>	<u>Aquarium</u>	<u>503-738-6211</u>
<u>Laurie Slick</u>	<u>neighbor</u>	<u>317 Sixth</u>	<u>503-440-4359</u>
<u>Lynn Potter</u>	<u>friend</u>	<u>172 Spruce Gearhart</u>	<u>503-717-9811</u>

I authorize, any person or entity contacted by the City of Seaside to furnish information relating to my appointment to the Commission/Committee/Board indicated above and I release any such person or entity from any and all liability for furnishing such information. I also release the City of Seaside from any and all liability for conducting such an investigation.

DATE 6/5/2018 SIGNATURE Pamela Bierly



# CITY of SEASIDE

OREGON'S  
F A M O U S  
A L L - Y E A R  
R E S O R T

989 BROADWAY  
SEASIDE, OREGON 97138  
(503) 738-5511

## PARKS ADVISORY COMMITTEE

Term of Office: 3 years  
Number of Members: 7

Chairperson\*  
Vice Chairperson\*\*  
Secretary\*\*\*

<u>NAME</u>	<u>ADDRESS</u>	<u>PHONE</u>	<u>TERM EXP.</u>
VACANCY			3/31/2019
MATTHEW STOLBERG	870 Avenue 'I' Unit 2	739-2593	3/31/2019
MARY BLAKE	1668 Whispering Pines	717-3810	3/31/2020
NORMAN BROWN***	3041 Evergreen Dr.	738-5132	3/31/2020
JASON BOYD**	1940 Huckleberry	738-4363	3/31/2020
MICHAEL HINTON	1015 S. IRVINE PL.	738-5748	3/31/2021
NANCY HOLMES*	1520 COOPER ST.	717-1614	3/31/2021
TOM HORNING	808 26TH AVENUE	738-5770	<a href="mailto:horning@pacifier.com">horning@pacifier.com</a>
DALE MCDOWELL	1387 AVENUE 'U'	738-5112	<a href="mailto:dmcdowell@cityofseaside.us">dmcdowell@cityofseaside.us</a>

## COMMUNITY CENTER COMMISSION

The purpose of the Community Center Commission is to be an advisory body to recommend and make suggestions to the City Council concerning matters relating to the well being of the community center and its users. Receive direction from the Council concerning matters relating to the well being of the community center and its users.

The commission consists of nine members who are not officials or employees of the city and who shall be appointed by the City Council. A minimum of five members shall reside within the city limits; a maximum of four members may reside within the Urban Growth Boundary, but outside the City limits.

A Community Center Commissioner's term of office shall commence on June 1, of each year of his/her term. At the first Commission meeting in June, the Commission will appoint one of their members as Chairperson and one as Vice-Chairperson. One member of the Commission will serve as secretary and minutes will be filed with the City Council.

The Commission shall hold a regular meeting at least once each month of the calendar year. The meetings shall be open to the public. Any person appointed to serve on this committee who misses three or more regularly scheduled meetings during a 12-month period shall be notified by letter from the Mayor that the position must be vacated. The individual may appeal the decision to the City Council. (A 12 month period is defined as beginning in January of each calendar year.)

The members shall serve without salary or compensation of any nature. "The members shall serve without salary or compensation of any nature."

**COMMITTEE/COMMISSION APPOINTMENT**

**1. Date Council Notified: June 25, 2018**

**Name: Helen Meinicke**

**Commission/Committee: Community Center Commission**

**Resignation Date: Helen Meinicke (June 1, 2018)**

**Term Expiration Date: June 1, 2018**

**Wants to be considered again: Meinicke - No**

**2. Applicants:**

**3. Nominations:**

**4. Appointment:**



# CITY of SEASIDE

OREGON'S  
FAMOUS  
ALL-YEAR  
RESORT

989 BROADWAY  
SEASIDE, OREGON 97138  
(503) 738-5511

## COMMUNITY CENTER COMMISSION

Term: 3 years

Number of Members: 9

<u>NAME</u>	<u>ADDRESS</u>	<u>PHONE</u>	<u>TERM EXPIRES</u>
VACANCY (MEINICKE)			6/01/2018
PIPER O'BRIEN	720 S. LINCOLN	738-3169	6/01/2019
GRETA PASSETTI*	2556 QUEEN ST. #1	738-6583	6/01/2019
MOLLY IRONS	221 7 <sup>TH</sup> AVENUE	738-7005	6/01/2019
MALINDA AUSTIN	2062 CEDAR STREET	738-3926	6/01/2020
JOE (FRED) FISHER	2533 OREGON	738-9897	6/01/2020
KRISTIN TSCHANNEN	770 16 <sup>TH</sup> AVENUE	323-397-5116	6/01/2020
LOUIS NEUBECKER	1859 BROADWAY	717-0153	6/01/2021
LEILA VERNOR	764 3 <sup>RD</sup> AVENUE	738-4352	6/01/2021

ORDINANCE NO. 2018-10

AN ORDINANCE GRANTING CHARTER COMMUNICATION A  
FRANCHISE TO PROVIDE SERVICES, FACILITIES, AND EQUIPMENT  
TO OPERATE AND MAINTAIN CONSTRUCTION AND OPERATION OF  
A CABLE NETWORK WITHIN THE CITY OF SEASIDE, OREGON

**This Franchise Agreement** (“Franchise”) is between the City of Seaside, Oregon, hereinafter referred to as the “Grantor” and Falcon Video Communications, L.P, locally known as Charter Communications, hereinafter referred to as the “Grantee.”

**WHEREAS**, the Grantor finds that the Grantee has substantially complied with the material terms of the current Franchise under applicable laws, and that the financial, legal and technical ability of the Grantee is sufficient to provide services, facilities and equipment necessary to meet the future cable-related needs of the community; and

**WHEREAS**, having afforded the public adequate notice and opportunity for comment, Grantor desires to enter into this Franchise with the Grantee for the construction and operation of a cable system on the terms set forth herein; and

**WHEREAS**, the Grantor and Grantee have complied with all federal and State-mandated procedural and substantive requirements pertinent to this franchise renewal;

*NOW, THEREFORE, the Grantor and Grantee agree as follows:*

**SECTION 1**  
**Definition of Terms**

**1.1 Terms.** For the purpose of this franchise the following terms, phrases, words and their derivations shall have the meaning ascribed to them in the Cable Communications Policy Act of 1984, as amended from time to time (the “Cable Act”), unless otherwise defined herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. The word “shall” is mandatory and “may” is permissive. Words not defined shall be given their common and ordinary meaning.

- A. “Cable System,” “Cable Service,” and “Basic Cable Service” shall be defined as set forth in the Cable Act.
- B. “Council” shall mean the governing body of the Grantor.
- C. “Cable Act” shall mean the Cable Communication Policy Act of 1984, as amended, 47 U.S.C. §§ 521, et. seq.
- D. “Channel” shall mean a portion of the electromagnetic frequency spectrum which is used in a cable system and which is capable of delivering a television channel.
- E. “Equipment” shall mean any poles, wires, cable, antennae, underground conduits, manholes, and other conductors, fixtures, equipment and other facilities used for the maintenance and operation of physical facilities located in the Streets, including the Cable System.
- F. “FCC” shall mean the Federal Communications Commission and any successor governmental entity thereto.
- G. “Franchise” shall mean the non-exclusive rights granted pursuant to this Franchise to construct operate and maintain a Cable System along the public ways within all or a specified area in the Franchise Area.
- H. “Franchise Area” shall mean the geographic boundaries of the Franchise Authority, and shall include any additions thereto by annexation or other legal means.

“Gross Revenues” shall mean all revenues, as determined in accordance with generally accepted accounting principles, actually received by Grantee from Subscribers residing within the Franchise Area for Cable Services purchased by such Subscribers on a regular, recurring monthly basis. Gross Revenues shall not include (1) any taxes, fees or assessments collected by the Grantee from Subscribers for pass-through to a government agency, including the franchise fee and any state or federal regulatory fees; (2) bad debt; (3) credits, refunds and deposits paid to Subscribers; (4) any exclusions available under applicable State law. Notwithstanding the foregoing, the following categories of revenue will not be included in Gross Revenue for purposes of calculating franchise fees paid under Section 10 hereto: advertising revenue, home shopping revenue and any franchise fees collected from subscribers.

- I. “Person” shall mean an individual, partnership, association, organization, corporation, trust or governmental entity.
- J. “Service Area” shall mean the area described in subsection 6.1 hereto.
- K. “Standard Installation” shall mean installations to residences and buildings that are located up to 125 feet from the point of connection to Grantee’s existing distribution system.
- L. “State” shall mean the State of Oregon.
- M. “Street” shall include each of the following located within the Franchise Area: public streets, roadways, highways, bridges, land paths, boulevards, avenues, lanes, alleys, sidewalks, circles, drives, easements, rights of way and similar public ways and extensions and additions thereto, including but not limited to public utility easements, dedicated utility strips, or rights-of-way dedicated for compatible uses now or hereafter held by the Grantor in the Franchise Area, which shall entitle the Grantee to the use thereof for the purpose of installing, operating, extending, repairing and maintaining the Cable System.
- N. “Subscriber” shall mean any Person lawfully receiving Cable Service from the Grantee.

## **SECTION 2** **Grant of Franchise**

**2.1 Grant.** The Grantor hereby grants to the Grantee a nonexclusive Franchise which authorizes the Grantee to erect, construct, extend, operate and maintain in, upon, along, across, above, over and under the Streets, now in existence and as may be created or established during its terms, all Equipment, including the Cable System. Nothing in this Franchise shall be construed to prohibit the Grantee from offering any service over its Cable System that is not prohibited by federal or State law.

**2.2 Term.** The Franchise and the rights, privileges and authority hereby granted shall be for an initial term of ten (10) years, commencing on the Effective Date of this Franchise as set forth in Section 14.12. This Franchise will be automatically extended for an additional term of five (5) years, unless either party notifies the other in writing of its desire to not exercise this automatic extension (and enter renewal negotiations under the Cable Act) at least three (3) years before the expiration of this Franchise. If such a notice is given, the parties will then proceed under the federal Cable Act renewal procedures.

**2.3 Police Powers.** The Grantee agrees to comply with the terms of any lawfully adopted generally applicable local ordinance necessary to the safety, health, and welfare of the public, to the extent that the provisions of the ordinance do not have the effect of limiting the benefits or expanding the obligations of the Grantee that are granted by this Franchise. This Franchise is a contract and except as to those changes which are the result of the Grantor’s lawful exercise of its general police power, the Grantor may not take any unilateral action which materially changes the ~~explicit~~ mutual promises in this contract.

**2.4 Cable System Franchise Required.** No Cable System shall be allowed to occupy or use the streets or public rights-of-way of the Franchise Area or be allowed to operate without a Cable System Franchise.

**SECTION 3**  
**Franchise Renewal**

**3.1 Procedures for Renewal.** The Grantor and the Grantee agree that any proceedings undertaken by the Grantor that relate to the renewal of the Grantee's Franchise shall be governed by and comply with the provisions of Section 626 of the Cable Act, or any such successor statute.

**SECTION 4**  
**Indemnification and Insurance**

**4.1 Indemnification.** The Grantee shall, by acceptance of the Franchise granted herein, defend the Grantor, its officers, boards, commissions, agents, and employees for all claims for injury to any Person or property caused by the negligence of Grantee in the construction or operation of the Cable System and in the event of a determination of liability shall indemnify and hold Grantor, its officers, boards, commissions, agents, and employees harmless from any and all liabilities, claims, demands, or judgments growing out of any injury to any Person or property as a result of the negligence of Grantee arising out of the construction, repair, extension, maintenance, operation or removal of its wires, poles or other equipment of any kind or character used in connection with the operation of the Cable System, provided that the Grantor shall give the Grantee written notice of its obligation to indemnify the Grantor within ten (10) days of receipt of a claim or action pursuant to this section. In the event any such claim arises, the Grantor shall tender the defense thereof to the Grantee and the Grantee shall have the right to defend, settle or compromise any claims arising hereunder and the Grantor shall cooperate fully herein. If the Grantor determines in good faith that its interests cannot be represented by the Grantee, the Grantee shall be excused from any obligation to represent the Grantor. Notwithstanding the foregoing, the Grantee shall not be obligated to indemnify the Grantor for any damages, liability or claims resulting from the willful misconduct or negligence of the Grantor or for the Grantor's use of the Cable System.

**4.2 Insurance.**

A. The Grantee shall maintain throughout the term of the Franchise insurance in amounts at least as follows:

Workers' Compensation	Statutory Limits
Commercial General Liability	\$1,000,000 per occurrence, Combined Single Limit (C.S.L.) \$2,000,000 General Aggregate
Auto Liability including coverage on all owned, non-owned hired autos	\$1,000,000 per occurrence C.S.L.
Umbrella Liability	\$1,000,000 per occurrence C.S.L.

B. The Grantor shall be added as an additional insured, arising out of work performed by Charter, to the above Commercial General Liability, Auto Liability and Umbrella Liability insurance coverage.

C. The Grantee shall furnish the Grantor with current certificates of insurance evidencing such coverage upon request.

**SECTION 5**  
**Service Obligations**

**5.1 No Discrimination.** Grantee shall not deny service, deny access, or otherwise discriminate against Subscribers, Channel users, or general citizens on the basis of race, color, religion, national origin, age or sex.

**5.2 Privacy.** The Grantee shall fully comply with the privacy rights of Subscribers as contained in Cable Act Section 631 (47 U.S.C. § 551).



**SECTION 6**  
**Service Availability**

**6.1 Service Area.** Subject to applicable law, the Grantee shall continue to provide Cable Service to all residences within the Franchise Area where Grantee currently provides Cable Service (the "Service Area"). Grantee shall have the right, but not the obligation, to extend the Cable System into any other portion of the Franchise Area, including annexed areas. Cable Service offered to Subscribers pursuant to this Franchise shall be conditioned upon Grantee having legal access on reasonable terms and conditions to any such Subscriber's dwelling unit or other units wherein such Cable Service is provided.

**6.2 New Development Underground.** In cases of new construction or property development where utilities are to be placed underground, the Grantor agrees to require as a condition of issuing a permit for open trenching to any developer or property owner that such developer or property owner give Grantee at least thirty (30) days prior written notice of such construction or development, and of the particular dates on which open trenching will be available for Grantee's installation of conduit, pedestals and/or vaults, and laterals to be provided at Grantee's expense. Grantee shall also provide specifications as needed for trenching. Costs of trenching and easements required to bring service to the development shall be borne by the developer or property owner; except that if Grantee fails to install its conduit, pedestals and/or vaults, and laterals within fifteen (15) working days of the date the trenches are available, as designated in the written notice given by the developer or property owner, then should the trenches be closed after the fifteen day period, the cost of new trenching is to be borne by Grantee.

**6.3 Annexation.** The Grantor shall promptly provide written notice to the Grantee of its annexation of any territory which is being provided Cable Service by the Grantee or its affiliates. Such annexed area will be subject to the provisions of this Franchise upon sixty (60) days' written notice from the Grantor, subject to the conditions set forth below and Section 6.1 above. The Grantor shall also notify Grantee in writing of all new street address assignments or changes within the Franchise Area. Grantee shall within ninety (90) days after receipt of the annexation notice, pay the Grantor franchise fees on revenue received from the operation of the Cable System to provide Cable Services in any area annexed by the Grantor if the Grantor has provided a written annexation notice that includes the addresses that will be moved into the Franchise Area in an Excel format or in a format that will allow Grantee to change its billing system. If the annexation notice does not include the addresses that will be moved into the Franchise Area, Grantee shall pay franchise fees within ninety (90) days after it receives the annexed addresses as set forth above. All notices due under this section shall be sent by certified mail, return receipt requested to the addresses set forth in Section 14.7 with a copy to the Director of Government Affairs. In any audit of franchise fees due under this Franchise, Grantee shall not be liable for franchise fees on annexed areas unless and until Grantee has received notification and information that meets the standards set forth in this section.

**SECTION 7**  
**Construction and Technical Standards**

**7.1 Compliance with Codes.** All construction practices and installation of equipment shall be done in accordance with all applicable sections of the National Electric Safety Code.

**7.2 Construction Standards and Requirements.** All of the Grantee's Equipment shall be installed, located, erected, constructed, reconstructed, replaced, removed, repaired, maintained and operated in accordance with good engineering practices and performed by experienced maintenance and construction personnel.

**7.3 Safety.** The Grantee shall at all times employ ordinary care and shall use commonly accepted methods and devices preventing failures and accidents which are likely to cause damage.

**7.4 Network Technical Requirements.** The Cable System shall be designed, constructed and operated so as to meet those technical standards adopted by the FCC relating to Cable Systems contained in part 76 of the FCC's rules and regulations as may be amended from time to time, regardless of the transmission technology utilized.

**SECTION 8**  
**Conditions on Street Occupancy**

**8.1 General Conditions.** Grantee shall have the right to utilize existing poles, conduits and other facilities whenever possible, and shall not construct or install any new, different, or additional poles, conduits, or other facilities on public property provided Grantee is able to access existing poles, conduits, or other facilities on reasonable terms and conditions.

**8.2 Underground Construction.** The facilities of the Grantee shall be installed underground in those Service Areas where existing telephone and electric services are both underground at the time of system construction. In areas where either telephone or electric utility facilities are installed aerially at the time of system construction, the Grantee may install its facilities aerially with the understanding that at such time as the existing aerial facilities are required to be placed underground by the Grantor, the Grantee shall likewise place its facilities underground. In the event Grantor or any agency thereof directly or indirectly reimburses any utility for the placement of cable underground or the movement of cable, Grantee shall be similarly reimbursed.

**8.3 Construction Codes and Permits.** Grantee shall obtain all legally required permits before commencing any construction work, including the opening or disturbance of any Street within the Franchise Area, provided that such permit requirements are of general applicability and such permitting requirements are uniformly and consistently applied by the Grantor as to other public utility companies and other entities operating in the Franchise Area. The Grantor shall cooperate with the Grantee in granting any permits required, providing such grant and subsequent construction by the Grantee shall not unduly interfere with the use of such Streets. Notwithstanding the above, the Grantee may set off any administrative permit fees or other fees required by the Grantor related to the Grantee's use of Grantor rights-of-way against the franchise fee payments required under Section 10.1 of this Franchise.

**8.4 System Construction.** All transmission lines, equipment and structures shall be so installed and located as to cause minimum interference with the rights and reasonable convenience of property owners and at all times shall be kept and maintained in a safe, adequate and substantial condition, and in good order and repair. The Grantee shall, at all times, employ ordinary care and use commonly accepted methods and devices for preventing failures and accidents which are likely to cause damage, injuries, or nuisances to the public. Suitable barricades, flags, lights, flares or other devices shall be used at such times and places as are reasonably required for the safety of all members of the public. Any poles or other fixtures placed in any public way by the Grantee shall be placed in such a manner as not to interfere with the usual travel on such public way.

**8.5 Restoration of Public Ways.** Grantee shall, at its own expense, restore any damage or disturbance caused to the public way as a result of its operation, construction, or maintenance of the Cable System to a condition reasonably comparable to the condition of the Streets immediately prior to such damage or disturbance.

**8.6 Tree Trimming.** Grantee or its designee shall have the authority to trim trees on public property at its own expense as may be necessary to protect its wires and facilities.

**8.7 Relocation for the Grantor.** The Grantee shall, upon receipt of reasonable advance written notice, to be not less than ten (10) business days, protect, support, temporarily disconnect, relocate, or remove any property of Grantee when lawfully required by the Grantor pursuant to its police powers. Grantee shall be responsible for any costs associated with these obligations to the same extent all other users of the Grantor rights-of-way are responsible for the costs related to the relocation of their facilities.

**8.8 Relocation for a Third Party.** The Grantee shall, on the request of any Person holding a lawful permit issued by the Grantor, protect, support, raise, lower, temporarily disconnect, relocate in or remove from the Street as necessary any property of the Grantee, provided that the expense of such is paid by any such Person benefiting from the relocation and the Grantee is given reasonable advance written notice to prepare for such changes. The Grantee may require such payment in advance. For purposes of this subsection, "reasonable advance written notice" shall be no less than ten (10) business days in the event of a temporary relocation and no less than one hundred twenty (120) days for a permanent relocation.

**8.9 Reimbursement of Costs.** If funds are available to any Person using the Streets for the purpose of defraying the cost of any of the foregoing, the Grantor shall reimburse the Grantee in the same manner in which other Persons affected by the requirement are reimbursed.

If the funds are controlled by another governmental entity, the Grantor shall make application for such funds on behalf of the Grantee.

**8.10 Emergency Use.** Grantee shall comply with 47 U.S.C. 544(g) and all regulations issued pursuant thereto with respect to an Emergency Alert System ("EAS"). If the Grantee provides an EAS, then the Grantor shall permit only appropriately trained and authorized Persons to operate the EAS equipment and shall take reasonable precautions to prevent any use of the Grantee's Cable System in any manner that results in inappropriate use thereof, or any loss or damage to the Cable System. The Grantor shall hold the Grantee, its employees, officers and assigns harmless from any claims or costs arising out of use of the EAS, including, but not limited to, reasonable attorneys' fees and costs.

## **SECTION 9** **Service and Rates**

**9.1 Phone Service.** The Grantee shall maintain a toll-free telephone number and a phone service operated to receive complaints and requests for repairs or adjustments at any time.

**9.2 Notification of Service Procedures.** The Grantee shall furnish each Subscriber at the time service is installed, written instructions that clearly set forth information concerning the procedures for making inquiries or complaints, including the Grantee's name, address and local telephone number. Grantee shall give the Grantor thirty (30) days prior notice of any rate increases, Channel lineup or other substantive service changes.

**9.3 Rate Regulation.** Grantor shall have the right to exercise rate regulation to the extent authorized by law, or to refrain from exercising such regulation for any period of time, at the sole discretion of the Grantor. If and when exercising rate regulation, the Grantor shall abide by the terms and conditions set forth by the FCC. Nothing herein shall be construed to limit the Grantee's ability to offer or provide bulk rate discounts or promotions.

**9.4 Continuity of Service.** It shall be the right of all Subscribers to continue receiving Cable Service insofar as their financial and other obligations to the Grantee are honored, and subject to Grantee's rights under Section 14.2 of this Franchise.

## **SECTION 10** **Franchise Fee**

**10.1 Amount of Fee.** Grantee shall pay to the Grantor an annual franchise fee in an amount equal to five percent (5%) of the annual Gross Revenue. Franchise fees may be passed through to Subscribers as a line item on Subscriber bills or otherwise as Grantee chooses, consistent with federal law. The amount of franchise fee and the method of calculation shall be equal when compared to the amount or method of calculation of the franchise fee in any other cable franchise or authorization to provide video service granted by Grantor. In the event any other cable franchise or authorization to provide video service provides for a lesser franchise fee than this Franchise, Grantee's obligation to pay a franchise fee under this Section 10.1 shall be reduced by an equivalent amount.

**10.2 Payment of Fee.** Payment of the fee due the Grantor shall be made on a quarterly basis, within forty-five (45) days of the close of each calendar quarter and transmitted by electronic funds transfer to a bank account designated by Grantor.

The payment period and the collection of the franchise fees that are to be paid to the Grantor pursuant to the Franchise shall commence sixty (60) days after the Effective Date of the Franchise as set forth in Section 14.12. In the event of a dispute, the Grantor, if it so requests, shall be furnished a statement of said payment, reflecting the Gross Revenues and the applicable charges.

**10.3 Accord and Satisfaction.** No acceptance of any payment by the Grantor shall be construed as a release or as an accord and satisfaction of any claim the Grantor may have for additional sums payable as a franchise fee under this Franchise.

**10.4 Limitation on Recovery.** The period of limitation for recovery of any franchise fee payable hereunder shall be three (3) years from the date on which payment by the Grantee was due. If any undisputed Franchise payment or recomputed payment is not made on or before the dates specified herein, Grantee shall pay an interest charge, computed from the last day of the fiscal year in which payment was due, at the annual rate of one (1%) percent over the prime interest rate.

## **SECTION 11** **Transfer of Franchise**

**11.1 Franchise Transfer.** The Franchise granted hereunder shall not be assigned, other than by operation of law or to an entity controlling, controlled by, or under common control with the Grantee, without the prior consent of the Grantor, such consent not to be unreasonably withheld or delayed. No such consent shall be required, however, for a transfer in trust, by mortgage, by other hypothecation, or by assignment of any rights, title, or interest of the Grantee in the Franchise or Cable System to secure indebtedness. Within thirty (30) days of receiving a request for transfer, the Grantor shall notify the Grantee in writing of any additional information it reasonably requires to determine the legal, financial and technical qualifications of the transferee. If the Grantor has not taken action on the Grantee's request for transfer within one hundred twenty (120) days after receiving such request, consent by the Grantor shall be deemed given.

## **SECTION 12** **Records**

**12.1 Inspection of Records.** Grantee shall permit any duly authorized representative of the Grantor, upon receipt of advance written notice, to examine during normal business hours and on a non-disruptive basis any and all of Grantee's records maintained by Grantee as is reasonably necessary to ensure Grantee's compliance with the material terms of this Franchise. Such notice shall specifically reference the subsection of the Franchise that is under review so that the Grantee may organize the necessary books and records for easy access by the Grantor. The Grantee shall not be required to maintain any books and records for Franchise compliance purposes longer than three (3) years. The Grantee shall not be required to provide Subscriber information in violation of Section 631 of the Cable Act. The Grantor agrees to treat as confidential any books, records or maps that constitute proprietary or confidential information to the extent Grantee makes the Grantor aware of such confidentiality. If the Grantor believes it must release any such confidential books, records, or maps in the course of enforcing this Franchise, or for any other reason, it shall advise Grantee in advance so that Grantee may take appropriate steps to protect its interests. Until otherwise ordered by a court or agency of competent jurisdiction, the Grantor agrees that, to the extent permitted by State and federal law, it shall deny access to any of Grantee's books, records, or maps marked confidential, as set forth above, to any Person.

## **SECTION 13** **Enforcement or Revocation**

**13.1 Notice of Violation.** If the Grantor believes that the Grantee has not complied with the terms of the Franchise, the Grantor shall first informally discuss the matter with Grantee. If these discussions do not lead to resolution of the problem, the Grantor shall notify the Grantee in writing of the exact nature of the alleged noncompliance (the "Violation Notice").

**13.2 Grantee's Right to Cure or Respond.** The Grantee shall have thirty (30) days from receipt of the Violation Notice to (i) respond to the Grantor, contesting the assertion of noncompliance, or (ii) to cure such default, or (iii) if, by the nature of default, such default cannot be cured within the thirty (30) day period, initiate reasonable steps to remedy such default and notify the Grantor of the steps being taken and the projected date that they will be completed.

**13.3 Public Hearing.** If the Grantee fails to respond to the Violation Notice received from the Grantor, or if the default is not remedied within the cure period set forth above, the Council shall schedule a public hearing if it intends to continue its investigation into the default. The Grantor shall provide the Grantee at least twenty (20) days prior written notice of such hearing, which specifies the time, place and purpose of such hearing, notice of which shall be published by the Clerk of the Grantor in a newspaper of general circulation within the Grantor in accordance with subsection 14.8 hereof.

At the hearing, the Council shall give the Grantee an opportunity to state its position on the matter, present evidence and question witnesses, after which it shall determine whether or not the Franchise shall be revoked. The public hearing shall be on the record and a written transcript shall be made available to the Grantee within ten (10) business days. The decision of the Council shall be made in writing and shall be delivered to the Grantee. The Grantee may appeal such determination to an appropriate court, which shall have the power to review the decision of the Council de novo. The Grantee may continue to operate the Cable System until all legal appeals procedures have been exhausted.

**13.4 Enforcement.** Subject to applicable federal and State law, in the event the Grantor, after the hearing set forth in subsection 13.3 above, determines that the Grantee is in default of any provision of the Franchise, the Grantor may:

- A. Seek specific performance of any provision, which reasonably lends itself to such remedy, as an alternative to damages; or
- B. Commence an action at law for monetary damages or seek other equitable relief; or
- C. In the case of a substantial default of a material provision of the Franchise, seek to revoke the Franchise itself in accordance with subsection 13.5 below.

**13.5 Revocation.**

- A. Prior to revocation or termination of the Franchise, the Grantor shall give written notice to the Grantee of its intent to revoke the Franchise on the basis of a pattern of noncompliance by the Grantee, including one or more instances of substantial noncompliance with a material provision of the Franchise. The notice shall set forth the exact nature of the noncompliance. The Grantee shall have sixty (60) days from such notice to either object in writing and to state its reasons for such objection and provide any explanation or to cure the alleged noncompliance. If the Grantor has not received a satisfactory response from Grantee, it may then seek to revoke the Franchise at a public hearing. The Grantee shall be given at least thirty (30) days prior written notice of such public hearing, specifying the time and place of such hearing and stating its intent to revoke the Franchise. The public hearing shall be conducted in accordance with the requirements of Section 13.3 above.
- B. Notwithstanding the above provisions, the Grantee reserves all of its rights under federal law or regulation.
- C. Upon revocation of the Franchise, Grantee may remove the Cable System from the Streets of the Grantor, or abandon the Cable System in place.

## **SECTION 14** **Miscellaneous Provisions**

**14.1 Compliance with Laws.** Grantor and Grantee shall conform to all applicable state and federal laws and rules regarding cable television as they become effective. Grantee shall also conform with all generally applicable Grantor ordinances, resolutions, rules and regulations heretofore or hereafter adopted or established during the entire term of the Franchise.

In the event of a conflict between Grantor ordinances, resolutions, rules or regulations and the provisions of this Franchise, the provisions of this Franchise shall govern.

**14.2 Force Majeure.** The Grantee shall not be held in default under, or in noncompliance with the provisions of the Franchise, nor suffer any enforcement or penalty relating to noncompliance or default, where such noncompliance or alleged defaults occurred or were caused by circumstances reasonably beyond the ability of the Grantee to anticipate and control. This provision includes, but is not limited to, severe or unusual weather conditions, fire, flood, or other acts of God, strikes, work delays caused by failure of utility providers to service, maintain or monitor their utility poles to which Grantee's Cable System is attached, as well as unavailability of materials and/or qualified labor to perform the work necessary.

**14.3 Minor Violations.** Furthermore, the parties hereby agree that it is not the Grantor's intention to subject the Grantee to forfeitures or revocation of the Franchise for violations of the Franchise where the violation was a good faith error that resulted in no or minimal negative impact on the Subscribers within the Franchise Area, or where strict performance would result in practical difficulties or hardship to the Grantee which outweighs the benefit to be derived by the Grantor and/or Subscribers.

**14.4 Action of Parties.** In any action by the Grantor or the Grantee that is mandated or permitted under the terms hereof, such party shall act in a reasonable, expeditious and timely manner. Furthermore, in any instance where approval or consent is required under the terms hereof, such approval or consent shall not be unreasonably withheld.

**14.5 Equal Protection.** If any other provider of cable services or video services (without regard to the technology used to deliver such services) is lawfully authorized by the Grantor or by any other State or federal governmental entity to provide such services using facilities located wholly or partly in the public rights-of-way of the Grantor, the Grantor shall within thirty (30) days of a written request from Grantee, modify this Franchise to insure that the obligations applicable to Grantee are no more burdensome than those imposed on the new competing provider. If the Grantor fails to make modifications consistent with this requirement, Grantee's Franchise shall be deemed so modified thirty (30) days after the Grantee's initial written notice. As an alternative to the Franchise modification request, the Grantee shall have the right and may choose to have this Franchise with the Grantor be deemed expired thirty (30) days after written notice to the Grantor. Nothing in this Franchise shall impair the right of the Grantee to terminate this Franchise and, at Grantee's option, negotiate a renewal or replacement franchise, license, consent, certificate or other authorization with any appropriate government entity. Nothing in this Section 14.5 shall be deemed a waiver of any remedies available to Grantee under federal, state or municipal law, including but not limited to Section 625 of the Cable Act, 47 U.S.C. § 545.

**14.6 Change in Law.** Notwithstanding any other provision in this Franchise, in the event any change to state or federal law occurring during the term of this Franchise eliminates the requirement for any person desiring to provide video service or Cable Service in the Franchise Area to obtain a franchise from the Grantor, then Grantee shall have the right to terminate this Franchise and operate the system under the terms and conditions established in applicable law. If Grantee chooses to terminate this Franchise pursuant to this provision, this Franchise shall be deemed to have expired by its terms on the effective date of any such change in law, whether or not such law allows existing franchise agreements to continue until the date of expiration provided in any existing franchise.

**14.7 Notices.** Unless otherwise provided by federal, State or local law, all notices pursuant to this Franchise shall be in writing and shall be deemed to be sufficiently given upon delivery to a Person at the address set forth below, or by U.S. certified mail, return receipt requested, nationally or internationally recognized courier service such as Federal Express or electronic mail communication to the designated electronic mail address provided below. Grantee shall provide thirty (30) days' written notice of any changes in rates, programming services or Channel positions using any reasonable written means. As set forth above, notice served upon the Grantor shall be delivered or sent to:

Grantor: City of Seaside  
Mark Winstanley  
989 Broadway  
Seaside, OR 97138  
Email: mwinstanley@cityofseaside.us

Grantee: Marian Jackson  
Government Affairs Director  
222 NE Park Plaza Drive, Suite 231  
Vancouver, WA 98684  
Email: marian.jackson@charter.com

Copy to: Charter Communications  
Attn: Vice President, Government Affairs  
12405 Powerscourt Drive  
St. Louis, MO 63131

**14.8 Public Notice.** Minimum public notice of any public meeting relating to this Franchise or any such grant of additional franchises, licenses, consents, certificates, authorizations, or exemptions by the Grantor to any other Person(s) to provide Cable Services, video services, or other television services utilizing any system or technology requiring use of the public rights of way shall be by publication at least once in a newspaper of general circulation in the area at least ten (10) days prior to the meeting and a posting at the administrative buildings of the Grantor.

**14.8.1** Grantor shall provide written notice to Grantee within ten (10) days of Grantor's receipt from any other Person(s) of an application or request for a franchise(s), license(s), consent(s), certificate(s), authorization(s), or exemption(s) to provide Cable Services, video services, or other television services utilizing any system or technology requiring use of the public rights of way. Any public hearings to consider such application or request shall have the same notice requirement as outlined in Paragraph 14.7 above.

**14.9 Severability.** If any section, subsection, sentence, clause, phrase, or portion of this Franchise is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions of this Franchise.

**14.10 Entire Agreement.** This Franchise and any Exhibits hereto constitute the entire agreement between Grantee and the Grantor and they supersede all prior or contemporaneous agreements, representations or understandings (whether written or oral) of the parties regarding the subject matter hereof.

**14.11 Administration of Franchise.** This Franchise is a contract and neither party may take any unilateral action that materially changes the explicit mutual promises and covenants contained herein. Any changes, modifications or amendments to this Franchise must be made in writing, signed by the Grantor and the Grantee. Any determination by the Grantor regarding the interpretation or enforcement of this Franchise shall be subject to de novo judicial review.

**14.12 Effective Date.** The Franchise granted herein will take effect and be in full force from such date of acceptance by Grantee recorded on the signature page of this Franchise. If any fee or grant that is passed through to Subscribers is required by this Franchise, such fee or grant shall go into effect sixty (60) days after the Effective Date of this Franchise.

**14.13 No Third Party Beneficiaries.** Nothing in this Franchise is intended to confer third-party beneficiary status on any person other than the parties to this Franchise to enforce the terms of this Franchise.

**ADOPTED** by the City Council of the City of Seaside on this \_\_\_\_ day of \_\_\_\_\_, 2018, by the following roll call vote:

YEAS:  
NAYS:  
ABSTAIN:  
ABSENT:

**SUBMITTED** to and **APPROVED** by the Mayor on this \_\_\_\_ day of \_\_\_\_\_, 2018.

\_\_\_\_\_  
JAY BARBER, MAYOR

ATTEST:

\_\_\_\_\_  
Mark J. Winstanley, City Manager

Accepted this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, subject to applicable federal, State and local law.

Falcon Video Communications, L.P.  
By: Charter Communications VII, LLC, its General  
Partner  
By: Charter Communications, Inc., its Manager

Signature: \_\_\_\_\_

Name/Title: \_\_\_\_\_