

ORDINANCE NO. 17

Series 2000

AN ORDINANCE AMENDING CHAPTER 5 OF THE BRECKENRIDGE TOWN CODE CONCERNING THE REGULATION OF OUTDOOR FIREWORK DISPLAYS; ADOPTING BY REFERENCE NFPA 1123, CODE OF FIREWORKS DISPLAY, 1995 EDITION, INCLUDING APPENDICES A, B, E, F AND G THERETO; PROVIDING PENALTIES FOR THE VIOLATION THEREOF; AND MAKING CONFORMING AMENDMENTS TO THE BRECKENRIDGE TOWN CODE

BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF BRECKENRIDGE, COLORADO:

Section 1. There is hereby added to the Breckenridge Town Code a new Chapter 7 of Title 5, to be entitled "Firework Permits", which shall read in its entirety as follows:

CHAPTER 7

FIREWORK PERMITS

SECTION:

- 5-7-1: Legal Authority
- 5-7-2: Definitions
- 5-7-3: Permit Required
- 5-7-4: Permits Issued by Town Council
- 5-7-5: Fireworks Code Adopted
- 5-7-6: Permit Application
- 5-7-7: Fireworks Operator; Requirements
- 5-7-8: Decision on Permit Application
- 5-7-9: Permit Conditions
- 5-7-10: Suspension or Revocation of Permit
- 5-7-11: Exemption For Town-Sponsored Firework Displays
- 5-7-12: Conflict With Other Town Ordinances or Codes
- 5-7-13: Penalties; Enforcement

5-7-1: LEGAL AUTHORITY: This Chapter is adopted pursuant to the authority granted to the Town by Article 28 of Title 12, C.R.S.

5-7-2: DEFINITIONS: For the purpose of this Chapter, the words and phrases used herein, unless the context otherwise indicates, shall have the following meaning:

BUILDING OFFICIAL	The Building Official of the Town of Breckenridge, Colorado.
FIREWORKS	The term "fireworks" shall have the meaning provided in Section 6-3C-11(A) of this Code.
FIREWORKS DISPLAY	A supervised outdoor exhibition involving the use or explosion of fireworks, other than permissible fireworks, intended by the operator to viewed by the general public or a substantial portion thereof.
OPERATOR	The person who is in charge of and responsible for the conduct of an fireworks display.
PERMISSIBLE FIREWORKS	The term "permissible fireworks" shall have the meaning provided in Section 6-3C-11(A) of this Code.
PERSON	Any individual, partnership, firm, company, association, corporation, limited liability company or governmental entity.
TOWN	The Town of Breckenridge, Colorado.
TOWN COUNCIL	The Town Council of the Town of Breckenridge, Colorado.

5-7-3: PERMIT REQUIRED: No person shall use or explode any fireworks, or supervise the use or explosion of any fireworks, other than permissible fireworks, in connection with, or as part of, a fireworks display unless a permit for such display has first been obtained from the Town pursuant to this Chapter.

5-7-4: PERMITS ISSUED BY TOWN COUNCIL: The Town Council has the authority to a grant to any person a nontransferable and nonassignable permit to conduct a fireworks display in accordance with and subject to the provisions the provisions of this Chapter.

5-7-5: FIREWORKS CODE ADOPTED: There is hereby adopted by reference as the Fireworks Code for the Town NFPA 1123, Code of Fireworks Display, 1995 edition, including Appendices A, B, E, F and G, published by the National Fire Protection Association, Batterymarch Park, Quincy, Massachusetts 02269. The Code is adopted in its entirety without any amendments or deletions. At least one copy of the adopted Code, certified to be a true copy, has been and is now on file in the office of the Building Official, and may be inspected by any interested person between the hours of nine o'clock (9:00) A.M. and five o'clock (5:00) p.m., Monday through Friday, holidays excepted. The Code as adopted shall be available for sale to the public through the office of the Town Clerk at a moderate price. The adoption of this Chapter and the Code provided for herein shall not create any duty to any person with regard to the enforcement or nonenforcement of this Chapter or said Code. No person shall have any civil liability remedy against the Town or its officers, employees or agents, for any damage arising out of or in any way connected with the adoption, enforcement or nonenforcement of this Section or said Code. Nothing in this Section or said Code shall be construed to create any liability or to waive any of the immunities, limitations on liability or other provisions of the Colorado Governmental Immunity Act, Section 24-10-101, et seq. C.R.S., or to waive any immunities or limitations on liability otherwise available to the Town, or its officers, employees or agents.

5-7-6: PERMIT APPLICATION:

A. An application for a permit to conduct a fireworks display shall be made in writing to the Town's Building Official on forms provided by the Town. Such application shall provide:

1. the name, address, and phone number of the individual, group, or organization sponsoring the fireworks display.
2. the name, address, and phone number of the individual who will act as the operator of the fireworks display.
3. the name, address, and phone number of the supplier of the fireworks to the operator, if different than the operator.
4. evidence of financial responsibility of the sponsor of the event or the operator of the fireworks display in the form of a current general liability insurance policy with minimum combined limits of liability of not less than Five Million Dollars (\$5,000,000). It shall be a condition of any permit issued pursuant to this Chapter that the Town shall be included as an additional insured under such policy.
5. the date and time of day at which the fireworks display is to be held, with a proposed inclement weather or fire restriction date and time in the event the display is required to be postponed due to weather conditions or fire restrictions.
6. the exact location planned for the fireworks display.
7. the number of assistants to the operator that are to be present.
8. the approximate number and kinds of fireworks to be discharged at the display.
9. the manner and place of storage of such fireworks prior to delivery to the fireworks display site.
10. a diagram of the grounds on which the fireworks display is to be held showing the point at which the fireworks are to be discharged, the location of all buildings, highways and other lines of communication, the lines behind which the audience is to be restrained, and the location of possible overhead obstructions.
11. such other information as the Building Official may reasonably require to determine compliance with the Town's Fireworks Code and this Chapter.

B. A completed application for a permit to conduct an fireworks display shall be submitted not less than 30 days prior to the date set for the fireworks display. Upon receipt of a completed application the Building Official shall make an investigation of the site of the proposed display to determine compliance with the Town's Fireworks Code, and shall report thereon to the Town Council prior to the Town Council taking final action on the application.

5-7-7: FIREWORKS OPERATOR; REQUIREMENTS: An operator shall be not less than 21 years of age, and shall possess a competency certificate in fireworks display by a recognized national organization or a current license to display fireworks issued by a state. In addition, such operator shall present evidence that he or she has actively participated in the performance of at least 5 outdoor fireworks displays prior to the display for which the application is made.

5-7-8: DECISION ON PERMIT APPLICATION. The final determination concerning an application for a permit submitted pursuant to this Chapter shall be made by Resolution of the Town Council at a regular or special meeting. The Town Council shall apply the following criteria in deciding whether to grant or deny an application:

1. Whether the application meets all of the requirements of this Chapter;
2. Whether the proposed operator is competent and meets the requirements of this Chapter;
3. Whether the date and time of the proposed fireworks display (and inclement weather/fire restriction date) will cause undue disruption, undue traffic or undue burdens on public safety equipment and personnel; and
4. Whether the proposed fireworks display shall be of such composition and character and shall be located, discharged, or fired so as, after proper site inspection, not to be hazardous to any person or property.

5-7-9: PERMIT CONDITIONS: It shall be an express condition of each permit issued by the Town pursuant to this Chapter that: (i) the discharge of fireworks pursuant to such permit shall be done in compliance with the requirements of the Town Fireworks Code as adopted pursuant to Section 5-7-5, (ii) the Town shall be named as an additional insured under the general liability insurance policy described in Section 5-7-6; and (iii) the fireworks display for which the permit was issued may be postponed or canceled, at the direction of the Building Official after consultation with the Red, White & Blue Fire Protection District, if (a) fire restrictions from any jurisdiction are in place on the date such display is scheduled to occur or, (b) it would otherwise be unsafe and a threat to public health, safety and welfare for such display to occur as scheduled due to other weather or climatic conditions. The Town Council shall have the authority to impose such other reasonable conditions upon a permit issued pursuant to this Chapter as may be necessary to reduce or minimize any potential threat to the public health, safety and welfare.

5-7-10: Suspension or Revocation of Permit. Any permit issued pursuant to this Chapter may be suspended or revoked by the Town Council if the Council determines by a preponderance of the evidence, after a hearing, that in connection with the submission of the permit application the applicant committed fraud, made a misrepresentation of a material fact or knowingly made a false statement. The applicant shall be given not less than 72 hours' prior notice of such hearing, and shall have the right to appear and be heard on all relevant matters prior to the Council taking action to suspend or revoke the permit.

5-7-10: EXEMPTION FOR TOWN-SPONSORED FIREWORK DISPLAYS: Notwithstanding any contained in this Chapter, no permit shall be required for any fireworks display sponsored by the Town.

5-7-11: CONFLICT WITH OTHER TOWN ORDINANCES OR CODES: In the event of any conflict between the requirements of this Chapter and any other Town ordinance or code, the provisions of this Chapter shall control.

5-7-12: PENALTIES; ENFORCEMENT. It shall be unlawful and a criminal municipal offense for any person to violate any provision of this Chapter, the Town Fireworks Code adopted by reference in this Chapter, or the terms of any permit issued by the Town pursuant to this Chapter. Any person who violates any such provision shall, upon conviction, be punished as provided in Chapter 4 of Title 1 of the Breckenridge Town Code. The civil remedies provided for in Section 1-4-6 of the Code shall apply to any violation or threatened violation of this Chapter.

Section 2. Subparagraph J of Section 6-3C-11 of the Breckenridge Town Code is hereby repealed in its entirety.

Section 3. Paragraph D of Section 6-3C-11 of the Breckenridge Town Code is hereby amended so as to read in its entirety as follows:

- D. Except as provided in this Section and as authorized by a permit issued by the Town pursuant to Chapter 7 of Title 5 of this Code, it shall be unlawful for any person to possess or discharge any fireworks, other than permissible fireworks, anywhere in the Town.

Section 4. Paragraph H of Section 6-3C-11 of the Breckenridge Town Code is hereby amended by the inclusion of a new item 5, which shall read in its entirety as follows:

5. The holding of an outdoor fireworks display pursuant to a permit therefor issued by the Town pursuant to Chapter 7 of Title 5 of this Code.

Section 5. Except as specifically amended hereby, the Breckenridge Town Code, and the various secondary codes adopted by reference therein, shall continue in full force and effect.

Section 6. The Town Council hereby finds, determines and declares that this Ordinance is necessary and proper to provide for the safety, preserve the health, promote the prosperity, and improve the order, comfort and convenience of the Town of Breckenridge and the inhabitants thereof.

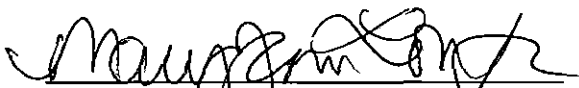
Section 7. The Town Council hereby finds, determines and declares that it has the power to adopt this Ordinance pursuant to the provisions of Sections 12-28-103 and 12-28-107, C.R.S., and the powers possessed by home rule municipalities in Colorado.


Section 8. This Ordinance shall be published and become effective as provided by Section 5.9 of the Breckenridge Town Charter.

INTRODUCED, READ ON FIRST READING, APPROVED AND ORDERED PUBLISHED IN FULL this 27<sup>th</sup> day of June, 2000. A Public Hearing shall be held at the regular meeting of the Town Council of the Town of Breckenridge, Colorado on the 11<sup>th</sup> day of July, 2000, at 7:30 P.M., or as soon thereafter as possible in the Municipal Building of the Town.

ATTEST:

TOWN OF BRECKENRIDGE

  
Mary Jean Loufek, CMC, Town Clerk

  
Sam Mamula, Mayor

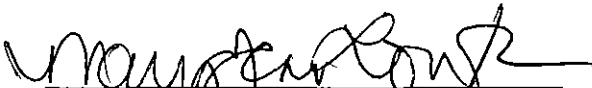
This Ordinance was published in full in the Summit County Journal, a newspaper of general circulation within the Town of Breckenridge, on July 7, 2000.


The public hearing on this Ordinance was held on July 11, 2000.

READ, ADOPTED ON SECOND READING AND ORDERED PUBLISHED BY TITLE WITH PENALTY CLAUSE, this 11<sup>th</sup> day of July, 2000. A copy of this Ordinance is available for inspection in the office of the Town Clerk.

ATTEST:

TOWN OF BRECKENRIDGE

  
Mary Jean Loufek, CMC, Town Clerk

  
Sam Mamula, Mayor

APPROVED IN FORM:

 7/11/00  
Town Attorney Date

This Ordinance was published by title in the Summit County Journal, a newspaper of general circulation within the Town of Breckenridge, on July 21, 2000.