

ORDINANCE NO. 39

Series 2006

AN ORDINANCE CONCERNING THE SALE, POSSESSION AND USE OF FIREWORKS
WITHIN THE TOWN OF BRECKENRIDGE; AND MAKING MISCELLANEOUS AMENDMENTS
TO THE BRECKENRIDGE TOWN CODE IN CONNECTION THEREWITH

WHEREAS, Section 31-15-601(1)(j), C.R.S., authorizes municipalities to regulate and restrain the use of fireworks, firecrackers, torpedoes, roman candles, skyrockets and other pyrotechnic displays; and

WHEREAS, Section 12-28-107, C.R.S., authorizes municipalities to establish local regulations concerning the sale, use or possession of fireworks so long as such local regulations do not permit or authorize the sale, use or possession of fireworks in violation of state law.

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

Section 1. Section 6-3C-11 of the Breckenridge Town Code is hereby repealed and readopted with changes so as to read in its entirety as follows:

6-3C-11 Fireworks:

A. As used in this section, unless the context clearly requires otherwise, the following words shall have the following meanings:

ADULT SUPERVISION: When a responsible adult is in the immediate vicinity of the person under the age of sixteen (16) years in order to oversee the activities of such child and to remedy any unsafe act.

FIREWORKS: Any composition or device for the purpose of producing a visible or an audible effect by combustion, deflagration, or detonation, and which meets the definition of "consumer (Explosives 1.4G)", "theatrical and novelty (Explosives 1.4S)" or "display (Explosives 1.3G)" fireworks as set forth in the U.S. Department of Transportation's (DOT) Hazardous Materials Regulations, Title 49 Code of Federal Regulations, Parts 171-180, as amended from time to time. "Fireworks" does not include:

(1) Toy caps for use in toy pistols, toy canes, or toy guns, and novelties and trick noisemakers manufactured in accordance with DOT regulations 49 C.F.R. 173.100(p), and packed and shipped according to said regulations.

(2) Model rockets and model rocket motors designed, sold, and used for the purpose of propelling recoverable aero models.

(3) Highway flares, railroad fuses, ship distress signals, smoke candles, and other emergency signal devices, snake or glow worm pressed pellets.

(4) Fireworks that are used exclusively for testing or research by a licensed explosive laboratory.

PERMISSIBLE FIREWORKS: Small fireworks which produce a visual effect at a height no greater than 6 feet above the ground, including, but not limited to, wheels, ground spinners, illuminating torches and colored fire in any form, dipped sticks and sparklers. Firecrackers, torpedoes, roman candles and skyrockets are not permissible fireworks.

B. Except as provided for in subsection C of this section, it shall be unlawful for any person to sell, expose for sale, offer for sale, transfer, give away, possess, use,

discharge or explode any fireworks, including permissible fireworks, within the Town.

C. Nothing in this section shall prevent or regulate:

1. The possession, use, discharge or explosion of permissible fireworks between July 3 and July 5 of any year; provided, that it shall be unlawful for a person under the age of sixteen (16) years to possess, use, discharge or explode permissible fireworks unless such person is under adult supervision.

2. The possession, use, discharge or explosion of fireworks by railroads or other transportation agencies for signal purposes or illumination;

3. The sale, possession, use, discharge or explosion of blank cartridges for a show or theater, for signal or ceremonial purposes in athletics or sports, or for use by military organizations;

4. The sale, purchase, possession or use of fireworks distributed by the division of wildlife for agricultural purposes under conditions approved by said division; or

5. The sale, purchase, possession, or use of fireworks in connection with a fireworks display authorized by a permit issued by the town pursuant to title 5, chapter 7 of this code.

D. The Police Chief shall seize, take, remove, or caused to be removed at the expense of the owner, all stocks of fireworks offered or exposed for sale, stored or held in violation of this chapter.

E. In the event of an emergency which requires immediate action in order to protect the public health, safety and welfare, the Town Manager, by proclamation, may prohibit the possession, use, discharge or explosion of permissible fireworks within the Town. During the time such proclamation is in effect, it shall be unlawful for any person to possess, use, discharge or explode permissible fireworks within the Town. A proclamation issued by the Town Manager pursuant to this subsection E shall be in force only until the next regular Town Council meeting following the issuance of such proclamation.

F. When necessary to avert the start of or lessen the likelihood of wildfire, the Town Council, by resolution duly adopted, may prohibit the possession, use, discharge or explosion of permissible fireworks within the Town. During the time such resolution is in effect, it shall be unlawful for any person to possess, use, discharge or explode permissible fireworks within the Town.

G. It is a misdemeanor offense for any person to violate any provision of this section. Any person convicted of having violated any provision of this section shall be punished as set forth in title 1, chapter 4 of this code.

Section 2. The title of Chapter 7 of Title 5 of the Breckenridge Town Code is hereby amended so as to read "Fireworks Displays."

Section 3. Section 5-7-3 of the Breckenridge Town Code is hereby amended so as to read in its entirety as follows:

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 during times when the use or explosion of permissible fireworks is permitted pursuant to section 6-3C-11 of this code, 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.

Section 4. 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 5. 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.

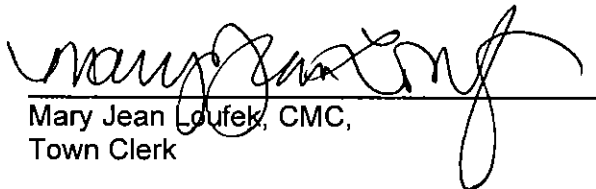
Section 6. The Town Council hereby finds, determines and declares that it has the power to adopt this ordinance pursuant to the provisions of Sections 12-28-107 and 31-15-601(1)(j), C.R.S., and the powers possessed by home rule municipalities in Colorado.

Section 7. 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 10th day of October, 2006. A Public Hearing shall be held at the regular meeting of the Town Council of the Town of Breckenridge, Colorado on the 24th day of October, 2006, 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


Ernie Blake, Mayor

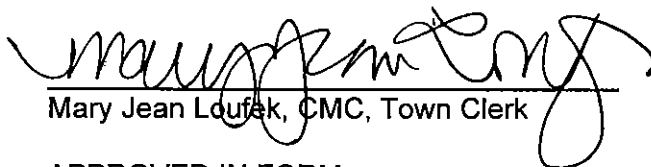
This Ordinance was published in full in the Summit County Journal, a newspaper of general circulation within the Town of Breckenridge on October 20, 2006.

The public hearing on this ordinance was held on October 24, 2006.

READ, ADOPTED ON SECOND READING AND ORDERED PUBLISHED BY TITLE ONLY, this 24th day of October, 2006. 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


Ernie Blake, Mayor

APPROVED IN FORM


Town Attorney

10/24/06
Date

This ordinance was published by title only in the Summit County Journal, a newspaper of general circulation within the Town of Breckenridge on November 3, 2006.