

ORDINANCE NO. 20

Series 2012

AN ORDINANCE AMENDING SECTION 5-5-5 OF THE BRECKENRIDGE TOWN CODE
CONCERNING THE ISSUANCE OF A SPECIAL PERMIT AUTHORIZING OPEN BURNING
WITHIN THE TOWN

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

Section 1. Section 5-5-5 of the Breckenridge Town Code is amended to read in its entirety as follows:

5-5-5: SPECIAL PERMITS:

A. Notwithstanding the provisions of section 5-5-3 of this chapter, the town manager shall have the authority to issue a special permit for the purpose of authorizing open burning within the town. An application for such a permit shall be made in writing to the town manager and shall state the date, time, location and purpose of such fire, and a description of all safety and precautionary measures planned. The burden of proof with respect to an application filed under this subsection A shall be upon the applicant. The town manager shall act upon such request within ten days of the town manager's receipt of the completed application; provided, however, that the town manager may extend the deadline for deciding an application by an additional seven days if required to complete the review of the application. The town manager may grant such application if the town manager finds that there are special and unique circumstances that justify granting the application. All open burning conducted within the town pursuant to a special permit issued pursuant to this section shall be conducted in accordance with the rules pertaining to open burning contained in the town's fire code. The town manager may impose such other reasonable conditions upon a special permit as the town manager determines to be necessary to adequately protect the health, safety and welfare of the town and its inhabitants. It shall be unlawful for any person to conduct any open burning within the town in violation of the terms and conditions of a special permit issued pursuant to this section.

B. An applicant for a special burn permit submitted pursuant to subsection A of this section has the right to appeal the town manager's denial or conditional approval of an application submitted under subsection A of this section to the town council. An applicant's appeal of the town manager's denial or conditional approval of an application shall be conducted in accordance with Section 1-19-13 of this code. The burden of proof in an appeal filed under this subsection B is upon the applicant. If the town council finds by a preponderance of the evidence that the decision of the town manager was correct, the town council shall uphold the decision of the town manager. If the town council finds by a preponderance of the evidence that the decision of the town manager was incorrect, the town manager's decision shall be set aside and the special burn permit issued (if it was previously denied) or the conditions of approval of such permit stricken or modified. The applicant's failure to timely appeal the town manager's decision of an application submitted pursuant to subsection A of this section is a waiver the applicant's right to contest the denial or conditional approval of the application. If there is any conflict between the provisions and requirements of this subsection B and the provisions and requirements of Section 1-19-13 of this code, the provisions and requirements of this subsection B control.

Section 3. 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 4. 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 5. The town council hereby finds, determines and declares that it has the power to adopt this ordinance pursuant to the provisions of Section 31-15-601, C.R.S., and the powers possessed by home rule municipalities in Colorado.

Section 6. 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 12 day of June, 2012.

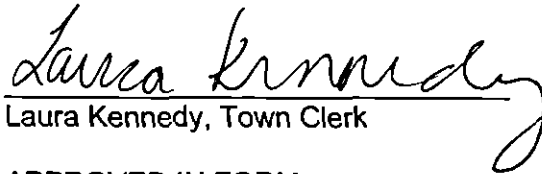
This Ordinance was published in full on the Town of Breckenridge website on June 14, June 15, and June 16, 2012.

A public hearing on this ordinance was held on June 26, 2012.

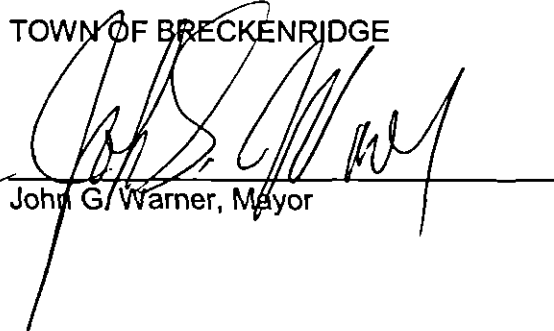
READ, ADOPTED ON SECOND READING AND ORDERED PUBLISHED IN FULL WITH AMENDMENTS ON THE TOWN'S WEBSITE this 26th day of June, 2012. A copy of this Ordinance is available for inspection in the office of the Town Clerk.

ATTEST:

TOWN OF BRECKENRIDGE




Laura Kennedy, Town Clerk



John G. Warner, Mayor

APPROVED IN FORM

 6/26/12

Town Attorney Date

This Ordinance was published on the Town of Breckenridge website on June 28, June 29, June 30, July 1, and July 2, 2012. This ordinance shall become effective on July 26, 2012.