

ORDINANCE NO. 10

Series 2015

AN ORDINANCE REPEALING AND READOPTING WITH CHANGES CHAPTER 13 OF TITLE 4 OF THE BRECKENRIDGE TOWN CODE CONCERNING SPECIAL EVENTS; AND MAKING MISCELLANEOUS AMENDMENTS TO THE BRECKENRIDGE TOWN CODE RELATED THERETO

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

Section 1. Chapter 13 of Title 4 of the Breckenridge Town Code is repealed and readopted with changes to read as follows:

Chapter 13
SPECIAL EVENTS

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- 4-13-26: RULES AND REGULATIONS:

4-13-1: SHORT TITLE:

This chapter shall be known and may be cited as the TOWN OF BRECKENRIDGE SPECIAL EVENTS ORDINANCE.

4-13-2: PURPOSE:

The purpose of this chapter is to establish a procedure for permitting and regulating special events, as that term is defined in this chapter. It is not the intent of this chapter to regulate speech or other forms of conduct protected by either the first amendment to the United States constitution or by the Colorado constitution. The permitting process established by this chapter is intended to be content neutral and not subject matter based. This chapter is intended merely to establish a nondiscriminatory mechanism by which the town can control, through appropriate regulation, the holding of special events.

4-13-3: FINDINGS:

The town council hereby finds and determines as follows:

A. The town of Breckenridge is authorized to regulate businesses operating within the town pursuant to section 2.2 of the Breckenridge town charter and section 31-15-501, Colorado Revised Statutes.

B. Special events, as defined in this chapter, contribute to the economic, cultural, social, and environmental health and wellbeing of the community.

C. Special events, however, create special regulatory problems and quality of life issues, including, but not limited to, the need for crowd control, sanitation, security, traffic management, parking, infrastructure, and desire to balance the quality and quantity of events.

D. In enacting this chapter the town council is exercising its police power as granted by the town's charter, and the constitution and statutes of the state of Colorado, as well as its power to license and regulate business activities.

4-13-4: DEFINITIONS:

As used in this chapter the following words have the following meanings, unless the context clearly requires otherwise:

APPLICANT: A person who has submitted an application for permit pursuant to this chapter.

APPLICATION: An application for permit submitted pursuant to this chapter.

DAY: A calendar day, unless otherwise indicated.

ENTERTAINMENT: Includes, but is not limited to, touring exhibitions, concerts, performances of dance, music, drama, art and comedy, parades, sporting exhibitions or contests, festivals, fairs, automotive displays, and performances of skill.

FILMING: The taking of motion pictures, the taking of still photography or the use and operation of television cameras or transmitting television equipment, including radio remotes and any preparatory activity associated therewith, and shall include events that include, but are not limited to, the making of feature or documentary films, television serials, webcasts, simulcasts or specials. The town manager shall provide in the administrative rules and regulations adopted pursuant to section 4-13-26 appropriate exemptions from the permitting requirements of this chapter for filming and photography activities not significantly affecting Town property and not requiring substantial Town services .

PERMIT: A permit issued by the town pursuant to this chapter.

PERMITTEE: The person to whom a permit has been issued pursuant to this chapter.

PERSON: Has the meaning provided in section 1-3-2 of this code.

SPECIAL EVENT OR EVENT: A planned or organized occurrence that:

(a) includes an expected gathering of 50 or more people if: (i) the primary purpose of the occurrence is entertainment; (ii) the public or a substantial portion of the public is invited to the occurrence, either by express invitation or by implication; and (iii) the occurrence is expected to have a visual, noise, or environmental impact, or to cause disruption of the normal routine of the community or the affected neighborhood; or

(b) involves filming.

TOWN: Has the meaning provided in section 1-3-2 of this code.

TOWN MANAGER: The Town Manager of the Town of Breckenridge, or his or her designee acting pursuant to section 1-7-2 of this code.

4-13-5: PERMIT REQUIRED:

No person shall stage, hold, present, or conduct a special event within the town without a valid permit issued in accordance with this chapter.

4-13-6: EXCEPTIONS:

The requirements of this chapter shall not apply to:

- A. An indoor special event of any kind;
- B. A special event held by the town;
- C. An event held at Carter Park, Kingdom Park, or the town's multipurpose fields contracted through the recreation department and constituting "normal or regular" use of those town facilities; or
- D. An event protected by either the first amendment to the United States constitution or by the Colorado constitution; provided, however, that a person staging, holding, presenting, or conducting such an event shall submit an application and obtain a permit pursuant to this chapter, but there shall be no fee required and the deadline for submission of an application as provided in subsection 4-13-7B of this chapter does not apply to such an application. The town manager may also modify any other requirement of this chapter with respect to such an application if necessary to comply with applicable law.

4-13-7: APPLICATION FOR PERMIT:

- A. A person seeking to obtain a permit shall file an application with the town manager. The form of the application shall be established by the town manager in administrative rules and regulations adopted pursuant to section 4-13-26.
- B. An application for a special event permit shall be filed with the town manager not less than forty five (45) days nor more than three hundred sixty five (365) days before the special event is proposed to begin. The town manager may waive the minimum forty five (45) day filing period and accept an application filed within a shorter time period if, after due consideration of the date, time, place, and nature of the special event, the anticipated number of participants, and the town services required in connection with the special event, the town manager determines that sufficient time exists for the proper investigation and review of the application; that the waiver will not present a hazard to public health, safety or welfare; and that the waiver will not create a substantial burden on the town's staff or financial resources.
- C. A permit issued pursuant to this chapter eliminates the need for a development permit to authorize the special event. However, an applicant may still be required to obtain a development permit depending on the size and scale of any temporary structures proposed to be used in connection with the special event. The need for a development permit will be determined by the town manager once the application has been received and reviewed.
- D. An application for a special event permit shall contain such information as shall be established by the town manager in administrative rules and regulations adopted pursuant to section 4-13-26.
- E. Applications shall be processed by the town manager in order of receipt.

4-13-8: FEES:

- A. When an application is filed an applicant shall pay to the town a nonrefundable application fee in such amount as shall be established by the town manager in administrative rules and regulations adopted pursuant to section 4-13-26.
- B. If the application includes a request to use any town property or any town service in connection with the special event, then before the permit is issued the applicant shall pay to the town any required charges, fees, or deposits required by the town in connection with the use of the requested town property or the provision of the requested town service.

4-13-9: INVESTIGATION OF APPLICATION:

- A. Upon receipt of a properly completed application, together with all information required in connection therewith, and the payment of the application fee as required by section 4-13-8 of this chapter, the town manager shall transmit copies of the application to such persons, agencies, or departments as the Town Manager shall identify in administrative rules and regulations adopted pursuant to section 4-13-26.

B. Within thirty (30) days of receipt of a completed application those town departments and other referral agencies described in subsection A of this section shall provide the town manager with comments concerning the application. If an application is accepted by the town manager less than forty five (45) days before the proposed special event is to be held, the town departments and other referral agencies shall use their best efforts to provide the town manager with their comments in a timely manner so that the town manager will have the comments before making a decision on the application.

4-13-10: STANDARDS FOR ISSUANCE OF PERMIT:

A. The town manager shall issue a permit when, from a consideration of the application and from such other information as may otherwise be obtained, the town manager determines that:

1. The application (including any required attachments and submissions) is complete and signed by the applicant;
2. The applicant has paid the application fee and any other fees required by section 4-13-8 of this chapter;
3. The application does not contain a material falsehood or misrepresentation;
4. The application complies with all of the requirements of this chapter;
5. The applicant is legally competent to contract under Colorado law;
6. The applicant or the person on whose behalf the application is made has not previously damaged town property and failed to pay in full for such damage, and the applicant does not have other outstanding and unpaid debts to the town;
7. The duration of the event will not be longer than five (5) consecutive days, unless the town manager (and not the town manager's designee acting pursuant to section 1-7-2 of this code), after taking into account all relevant factors related to the event, determines that the proposed event may be longer;
8. The proposed special event will not conflict with:
 - a. A special event for which a permit has previously been issued;
 - b. A town sponsored event;
 - c. An annual special event which is reasonably expected to be held again, but for which an application has yet to be submitted; or
 - d. An event protected by the first amendment to the United States constitution or by the Colorado constitution which due to its anticipated size, location, hours of operation, or other relevant factors, is reasonably expected to require such town services or personnel as to make the holding of the special event for which the application was submitted a potential risk to the public health, safety or welfare.
9. The holding of the proposed special event will not cause significant disruption in the ability of the town to deliver or provide essential governmental services;
10. Adequate sanitation and other required health facilities are or will be made available at or sufficiently near to the proposed special event area(s);
11. Sufficient parking is available near the site of the proposed special event to accommodate the number of vehicles reasonably expected for the event, or an acceptable transportation and parking plan to provide adequate parking for the proposed special event has been submitted and approved by the town manager;
12. The proposed special event will not pose a danger to the public health, safety or welfare;
13. The proposed special event will positively impact the town culturally, economically, environmentally or socially.

4-13-11: RELATIONSHIP TO OTHER TOWN ORDINANCES:

Notwithstanding anything contained in this code to the contrary:

A. A permit issued under this chapter is not a special events liquor license. If alcoholic beverages are to be served at the special event, the permittee must obtain the required permit or approval from the town clerk or the town of Breckenridge liquor licensing authority.

B. A permit issued under this chapter may authorize the permittee to exceed the maximum noise levels provided in title 5, chapter 8 of this code in connection with the holding of the special event for which the permit is issued; and the town manager may establish specific maximum noise levels for any such event. The town manager shall apply the standards set forth in subsection 5-8-12A of this code in connection with any request for permission to exceed the maximum noise levels provided in title 5, chapter 8 of this code.

C. A permit issued under this chapter shall be treated as a special event permit within the meaning of section 9-1-19-44A, "Policy 44 (Absolute) Radio Broadcasts", of the development

code. No class D minor development permit shall be required to authorize any radio broadcast conducted as a special event.

D. Except as specifically provided in this section, in addition to a permit a permittee must obtain all other required town permits and approvals before holding the special event authorized by the permit, including, but not limited to, a development permit and building permit.

4-13-12: DENIAL OF PERMIT:

A. The town manager shall deny an application for a special event permit if the town manager determines that:

1. The application conflicts with another event as described in subsection 4-13-10A8 of this chapter;
2. Information contained in the application, or supplemental information requested from the applicant, is found to be false in any material respect;
3. The application fails to meet any of the standards set forth in section 4-13-10 of this chapter;
4. The time, route, or size of the event will substantially interrupt the safe and orderly movement of traffic on or contiguous to the event site or route or will disrupt the use of a street or highway at a time when it is usually subject to heavy traffic congestion;
5. The location of the event will substantially interfere with any construction or maintenance work scheduled to take place upon or along the town streets or property;
6. The applicant has failed to pay costs, fees, or deposits for a previous special event permit within the preceding five (5) years; or the applicant has failed to pay the town for damages arising from a previous special event held by the applicant, regardless of when such event was held; or
7. The applicant has failed to abide by the requirements or conditions of previous special event permits within the preceding five (5) years.

B. If an application is denied the application fee shall not be refunded.

4-13-13: AUTHORITY TO IMPOSE CONDITIONS ON PERMIT:

The town manager shall have the authority to impose such reasonable terms and conditions on a permit as may be necessary to protect the public health, safety, and welfare, and to obtain compliance with the requirements of this chapter and applicable law.

4-13-14: NONDISCRIMINATION; CONTENT NEUTRALITY:

The town manager shall uniformly consider each application for a permit upon its merits, and shall not discriminate in granting or denying a permit under this chapter based upon race, creed, color, religion, national origin, ancestry, sex, age, veteran status, sexual orientation, or physical or mental disability. Further, the town manager shall be content neutral in reviewing an application, and shall not consider the subject matter of any type of speech proposed as part of the application.

4-13-15: DECISION BY TOWN MANAGER:

A. The town manager shall approve, deny or conditionally approve an application within forty (40) days of the receipt of the completed application unless, by written notice to the applicant, the decision period is extended for an additional ten (10) days; provided, however, that in any event the town manager shall render a decision on an application not less than forty eight (48) hours prior to the scheduled commencement of the special event which is the subject of the application.

B. If an application is denied, the town manager shall clearly set forth in writing the grounds for denial and, where feasible, shall propose measures to cure the defects that lead to the denial of the application. When the basis for denial is the prior receipt of a competing application for the same time and place, the town manager shall suggest an alternative time or place for the special event which is the subject of the application which was denied.

C. In the event an application is conditionally approved, the town manager shall clearly set forth in writing the conditions of approval.

4-13-16: NOTICE OF DECISION:

The town manager shall notify the applicant of the town manager's decision on the application within three (3) business days of rendering the decision. Notice shall be given by mailing a copy of the town manager's decision to the applicant by regular mail, postage prepaid, at the address shown in the application. Notice is deemed to have been properly given upon mailing.

4-13-17: APPEAL OF DENIAL OR CONDITIONAL APPROVAL OF PERMIT:

A. An applicant has the right to appeal the town manager's denial or conditional approval of an application to the town council.

B. An applicant's appeal of the town manager's denial or conditional approval of an application shall be processed in accordance with title 1, chapter 19 of this code; provided, however, that the applicant's written notice of appeal shall be filed with the town manager within ten (10) days after the date of mailing of the town manager's decision on the application.

C. The applicant shall be provided with not less than ten (10) days' prior written notice of the appeal hearing to be held by the town council.

D. The burden of proof in an appeal filed under this section shall be on the applicant.

E. 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 permit issued (if it was previously denied) or the conditions of approval stricken or modified.

F. Any decision made by the town council pursuant to this section shall be a final decision and may be appealed to the district court pursuant to rule 106(a)(4) of the Colorado rules of civil procedure. The applicant's failure to timely appeal the decision is a waiver of the applicant's right to contest the denial or conditional approval of the application.

G. If there is any conflict between the provisions and requirements of this section and the provisions and requirements of title 1, chapter 19 of this code, the provisions and requirements of this section shall control.

4-13-18: CONTENTS OF PERMIT: The required contents of a permit shall be established by the town manager in administrative rules and regulations adopted pursuant to Section 4-13-26.

4-13-19: PERMIT NOT TRANSFERABLE:

A permit is nontransferable and nonassignable. Any attempt to transfer or assign such permit voids the permit.

4-13-20: NOTICE OF ISSUANCE OF PERMIT:

Immediately upon the issuance of a permit, the town manager shall send a copy of the permit to such persons, agencies, or departments as the Town Manager shall identify in administrative rules and regulations adopted pursuant to section 4-13-26.

4-13-21: INSURANCE REQUIREMENT:

Each permit shall require the permittee to file with the Town's finance and municipal services department prior to commencement of the setup of the special event a certificate of insurance demonstrating that the permittee has in effect a policy or policies of general liability insurance covering the special event with minimum combined single limits of not less than one million dollars (\$1,000,000.00). Such insurance shall remain in full force throughout the entirety of the special event for which the permit is issued. The town shall be named as an additional insured under such insurance policy. If alcoholic beverages will be served at the special event, the permittee must also provide proof of liquor liability insurance.

4-13-22: DUTIES OF PERMITTEE:

In connection with the holding of the event for which a permit is issued, a permittee shall:

A. Comply with all of the terms and conditions of the permit;

- B. Comply with all applicable town ordinances and state and federal laws; and
- C. Permit inspection of its records and special event facilities by the town manager for the purpose of determining the permittee's compliance with the terms and conditions of the permit.

4-13-23: POSTING OF PERMIT:

A permit shall be continuously posted in a conspicuous location at the site of the special event throughout the duration of the special event.

4-13-24: SUSPENSION OR REVOCATION OF PERMIT:

A. A permit issued pursuant to this chapter may be suspended or revoked by the town manager after a hearing for the following reasons:

1. Fraud, misrepresentation or a false statement of material fact contained in the permit application;
2. A violation of any town, state, or federal law or regulation;
3. A violation of any of the terms and conditions of the permit;
4. A violation of any of the provisions of this chapter;
5. Threatening weather conditions if the town manager determines that holding the special event under such conditions would either:
 - a. pose a threat to the public health, safety or welfare, or
 - b. pose a threat to any town owned property to be used in connection with this special event;
6. The existence of fire or drought conditions if the town manager determines that holding the special event under such conditions would pose a threat to the public health, safety or welfare;
7. Any unforeseen, unanticipated, or uncontrollable circumstance if the town manager determines that holding the special event under such circumstance would pose a threat to the public health, safety or welfare; or
8. An irreconcilable scheduling conflict with an event protected by either the first amendment to the United States constitution or by the Colorado constitution.

B. In connection with the suspension of a permit, the town manager may impose reasonable conditions.

C. A hearing held pursuant to this section shall be processed in accordance with title 1, chapter 19 of this code.

D. In deciding whether a permit should be suspended or revoked, and in deciding what conditions to impose in the event of a suspension, if any, the town manager shall consider:

1. The nature and seriousness of the violation;
2. Corrective action, if any, taken by the permittee;
3. Prior violation(s), if any, by the permittee;
4. The likelihood of recurrence;
5. All circumstances surrounding the violation;
6. Whether the violation was willful;
7. The number of previous special events held by the permittee;
8. The number of previous violations by the permittee; and
9. Previous sanctions, if any, imposed against the permittee.

E. The town manager shall have the authority to summarily suspend a permit during a special event if it appears to the town manager that a permittee has violated one or more of the terms and conditions of a permit or any applicable law and, based upon the available information, the town manager, in consultation with the police chief, reasonably determines that such violation results in an immediate threat to the public health, safety and welfare. No appeal is allowed from a summary suspension of a permit issued by the town manager pursuant to this subsection.

F. If the town manager suspends a permit, except for a summary suspension pursuant to subsection E of this section, or revokes a permit, the permittee may appeal the suspension or revocation to the town council in accordance with title 1, chapter 19 of this code. The burden of proof in such an appeal is on the permittee. If the town council finds by a preponderance of the evidence that the town manager acted correctly in suspending or revoking the permit, the town council shall uphold the town manager's order of suspension or revocation. If the town council

finds by a preponderance of the evidence that the town manager acted improperly in suspending or revoking the permit, the appeal shall be sustained, and the town manager's order of suspension or revocation shall be set aside. Any decision made by the town council pursuant to this section shall be a final decision and may be appealed to the district court pursuant to rule 106(a)(4) of the Colorado rules of civil procedure. The applicant's failure to timely appeal the decision is a waiver of the applicant's right to contest the denial or conditional approval of the application.

G. No fee previously paid by a permittee in connection with the application shall be refunded if such permit is suspended or revoked.

4-13-25: PENALTIES; INJUNCTIVE RELIEF:

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

B. The staging, holding, presenting, or conducting of a special event without a valid permit issued pursuant to this chapter may be enjoined by the town in an action brought in a court of competent jurisdiction, including, but not limited to, the town's municipal court pursuant to section 1-8-10 of this code.

4-13-26: RULES AND REGULATIONS:

The town manager shall have the authority from time to time to adopt, amend, alter, and repeal administrative rules and regulations as may be necessary for the proper administration of this chapter. Such regulations shall be adopted in accordance with the procedures established by title 1, chapter 18 of this code.

Section 2. Section 9-7-6(F) of the Breckenridge Town Code [OUTDOOR DISPLAY OF MERCHANDISE ORDINANCE] is amended to read as follows:

F. A special event for which a permit has been issued pursuant to title 4, chapter 2 of this code.

Section 3. Section 9-7-6(I) of the Breckenridge Town Code [OUTDOOR DISPLAY OF MERCHANDISE ORDINANCE] is amended to read as follows:

I. Outdoor Sales Days: Outdoor displays of merchandise conducted on Outdoor Sales Days as established by the town manager. In setting Outdoor Sales Days, the town manager shall consult with representatives of the business community to determine appropriate dates. At least thirty (30) days before setting Outdoor Sales Days each year, the town manager shall advise the town council of the proposed dates of such event.

Section 4. Section 4-2-11 of the Breckenridge Town Code [TRANSIENT DEALER'S LICENSE ORDINANCE] is amended to read as follows:

4-2-11: SPECIAL EVENT BUSINESS LICENSE:

The sponsor of any fair, show or exhibition of arts, crafts or similar handiwork, or the sponsor of any special event to be held pursuant to a permit issued pursuant to title 4, chapter 2 of this code shall obtain a special events business license from the town manager at least fourteen (14) days prior to the event. Said application shall include the name and local address of the sponsor, proposed duration of the event, names and addresses of the artisans or merchants taking part in the event, purpose of the event, and goods or types of goods to be sold, and a statement under oath as to whether the applicant or its agents have ever been convicted of any crime or misdemeanor and, if so, the nature thereof.

A. At the time of filing of the application, the sponsor must pay a license fee of two hundred fifty dollars (\$250.00) to the town clerk, or the artisans or merchants must obtain a business license from the town clerk as provided in subsection 4-2-5 of this chapter, to cover the costs of investigating the facts stated in the application and administrative costs.

B. At least five (5) days prior to the event, each merchant taking part in the event shall file with the town clerk, a sworn statement, on a form furnished by the town clerk, which shall give the following information:

1. Name, phone number and permanent home/business address.
2. Date of birth.
3. Colorado state sales tax number.
4. Anticipated taxable sales from the special event.

C. Merchants covered under a special events business license shall be exempt from the license fee provided in subsection 4-2-5D of this chapter, but are subject to the sales tax deposit as described in subsection 4-2-5E of this chapter.

D. Organizations meeting the qualifications set forth in subsection 4-2-12A of this chapter shall be exempt from the special events license fee, but shall be subject to all other requirements of this section.

E. The town manager may impose reasonable conditions on the approval of the special events business license, including, but not limited to, required sanitation and cleanup measures, security measures or reasonable requirements to secure the payment of the sale tax due to the town.

Section 5. Except as specifically amended by this ordinance, 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 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 finds, determines, and declares that it has the power to adopt this ordinance pursuant to the provisions of Section 31-15-501, 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.

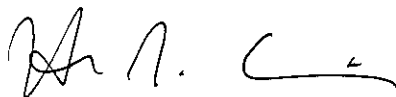
INTRODUCED, READ ON FIRST READING, APPROVED AND ORDERED PUBLISHED IN FULL this 28th day of April, 2015.

This ordinance was published in full on the Town of Breckenridge website on April 30, May 1, May 2, May 3 and May 4, 2015.

A public hearing on this ordinance was held on May 12, 2015.

READ, ADOPTED ON SECOND READING AND ORDERED PUBLISHED IN FULL ON THE TOWN'S WEBSITE this 12th day of May, 2015. A copy of this Ordinance is available for inspection in the office of the Town Clerk.

ATTEST:



Helen Cospolich, Town Clerk

TOWN OF BRECKENRIDGE



John G. Warner, Mayor

APPROVED IN FORM



Town Attorney

5/12/15

Date

This ordinance was published on the Town of Breckenridge website on May 13, May 14, May 15, May 16 and May 17, 2015. This ordinance shall become effective on June 12, 2015.