



A PROCLAMATION PROHIBITING THE POSSESSION, USE, DISCHARGE OR EXPLOSION OF “PERMISSIBLE FIREWORKS” WITHIN THE TOWN OF BRECKENRIDGE BETWEEN JULY 3, 2018 AND JULY 5, 2018; AND PROVIDING A PENALTY FOR THE VIOLATION OF SUCH PROHIBITION

Background and Need

A. 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.

B. Section 24-33.5-2007, C.R.S., which is part of the State of Colorado’s laws regulating and governing fireworks, provides that nothing in the state law prohibits municipalities from establishing their own local regulations and prohibitions concerning the sale, use, and possession of fireworks within their jurisdiction, including permissible fireworks as defined by applicable law, but such section provides that no city or town “shall permit or authorize the sale, use, and possession of any fireworks in violation of this part 20 [of Article 33.5 of Title 24, C.R.S.]”

C. Pursuant to the express statutory authority described in Sections A and B, above, as well as the authority granted to home rule municipalities by Article XX of the Colorado Constitution and the powers contained in the Breckenridge Town Charter, the Town Council of the Town of Breckenridge adopted Section 6-3C-11 of the Breckenridge Town Code, entitled “Fireworks” (“**Breckenridge Fireworks Ordinance**”).

D. The Breckenridge Fireworks Ordinance defines the terms “fireworks” and “permissible fireworks.”

E. The Breckenridge Fireworks Ordinance makes it unlawful and a misdemeanor offense 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, but normally allows the possession, use, discharge and explosion of “permissible fireworks” between July 3 and July 5 of any year.

F. However, the Breckenridge Fireworks Ordinance also provides that 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 is unlawful for any person to possess, use, discharge or explode permissible fireworks within the Town.

G. Numerous wildfires have occurred (and are currently still occurring) throughout the State of Colorado. The State’s firefighting resources have been depleted, and further depletion is expected in the next few weeks.

H. The prevailing weather conditions in the Town have been dry and windy, creating the substantial risk of wildfire. The weather forecast for Breckenridge for the first week of July strongly suggests that a high danger of wildfire will continue to exist during such time period.

I. Both Summit County Government and the Red, White and Blue Fire Protection District have expressed concern over the current wildfire conditions within Summit County, and have further urged caution with respect to the use of fireworks over the coming Fourth of July holiday.

J. The elimination of the right to possess, use, discharge and explode “permissible fireworks” within the Town of Breckenridge between July 3 and July 5 of this year (2018) is necessary in my judgment to avert the start of or lessen the likelihood of wildfire within the Town.

TOWN MANAGER’S PROCLAMATION

Findings

I find and determine that an emergency exists within the Town of Breckenridge which requires immediate action in order to protect the public health, safety and welfare. This Proclamation, and the ban on the possession, use, discharge or explosion of permissible fireworks within the Town of Breckenridge from July 3, 2018 through July 5, 2018, as provided in this Proclamation, is necessary to protect the public health, safety and welfare.

Proclamation

Now, Therefore, I, Rick G. Holman, Town Manager of the Town of Breckenridge, Colorado proclaim as follows:

Section 1. Definition. As used in this Proclamation, the term “permissible fireworks” has the meaning provided in Section 6-3C-11 of the Breckenridge Town Code. Such definition defines “permissible fireworks”, in pertinent part, as follows:

(s)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.

Section 2. Unlawful To Possess, Use, Discharge or Explode Permissible Fireworks. Pursuant to the authority granted to me by Section 6-3C-11(E) of the Breckenridge Town Code, beginning at 12:01 A.M. on July 3, 2018 and ending at 11:59 P.M. on July 5, 2018 it is unlawful and a misdemeanor offense for any person to possess, use, discharge or explode permissible fireworks anywhere within the Town of Breckenridge.

Section 3. Penalty. Any person who violates Section 2 of this Proclamation is guilty of having violated Section 6-3C-11 of the Breckenridge Town Code and, upon conviction, shall be punished as set forth in Title 1, Chapter 4 of the Breckenridge Town Code.

Section 4. Effective Date and Time. This Proclamation is issued and is effective this 27th day of June, 2018 at 8:00 o'clock A.M.

Section 5. Duration of Proclamation. This Proclamation shall remain in full force and effect until the next regular meeting of the Breckenridge Town Council on July 10, 2018; provided, however, that the expiration of this Proclamation shall not affect or prevent the prosecution or punishment of any person for any act done or committed in violation of this Proclamation during the time this Proclamation is in effect.

TOWN OF BRECKENRIDGE

By:

_____/s/_____
Rick G. Holman, Town Manager

ATTEST:

_____/s/_____
Helen Cospolich, CMC, Town Clerk