

**TOWN OF MARBLE, COLORADO
ORDINANCE NO. 5, Series of 2007**

An Emergency Ordinance of the Town of Marble, Colorado Temporarily Prohibiting Open-Burning Fires and the Use, Sale, and Possession of Fireworks.

WHEREAS, the extremely dry weather conditions present in the Town and surrounding areas significantly magnify the fire danger posed to persons and property by open-burning fires and the use, sale, and possession of fireworks; and

WHEREAS, the Town Board of Trustees has determined that open-burning fires and the use, sale, and possession of fireworks creates an immediate threat to the public peace, health, safety, and welfare of the Town requiring an emergency ordinance; and

WHEREAS, the Town seeks to provide for the immediate public peace, health, safety, and welfare of its citizens by temporarily restricting certain types of open-burning fires and the use, sale, and possession of all fireworks; and

WHEREAS, C.R.S. § 12-28-107 (2002) authorizes the Town to regulate the use, sale, and possession of fireworks; and

WHEREAS, C.R.S. § 31-15-401 (2002) authorizes the Town to enact regulations necessary to promote the health and well-being of its citizens; and

WHEREAS, an emergency ordinance shall take effect immediately upon passage and shall be published in full as soon as reasonably possible.

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

1. The Town Council incorporates the foregoing recitals as findings by the Town Council.
2. The following regulations are hereby enacted:

A. Purpose. This Ordinance seeks to preserve the quality of life, health, safety, and welfare of the Marble community by temporarily prohibiting certain types of open-burning fires and the use, sale, and possession of all fireworks. Open-burning fires and the use, sale, and possession of fireworks create a serious hazard to the citizens and property of the Town and the surrounding areas by their propensity to cause wildfires. Temporarily prohibiting such activities will reduce the risk of wildfires and help ensure the public peace, health, and safety of the citizens.

B. Authority and Applicability. The Town of Marble has the authority to adopt this Ordinance both under the Colorado Constitution and under the express statutory language of C.R.S. § 12-28-107 (2002) and C.R.S. § 31-15-401 (2002).

C. Definitions.

1. "Fireworks" means any article, device or substance prepared for the primary purpose of producing a visual or auditory sensation by combustion, explosion, deflagration, or detonation which meets the description of fireworks as set forth in the United States Department of Transportation Hazardous Materials Regulations, Title 49, Code of Federal Regulations, Parts 173.88 and 173.100, and including, but not limited to, the following articles and devices commonly known and used as fireworks:

- (a) toy cannons or toy canes in which explosives are used;
- (b) blank cartridges;
- (c) firecrackers;
- (d) torpedoes;
- (e) skyrockets;
- (f) rockets;
- (g) Roman candles;
- (h) cylindrical fountains;
- (i) cone fountains;
- (j) wheels;
- (k) ground spinners;
- (l) illuminating torches and colored fire in any form;
- (m) dayglo bombs and torches;
- (n) sparklers;
- (o) snakes; and
- (p) any other fireworks of like construction and any

fireworks containing any explosive or flammable compound, or any tablets or devices containing any explosive substance.

2. "Fireworks" does not include:

(a) toy caps which contain less than 26 hundredths of a grain of explosive compound per cap; (b) highway flares, railroad fuses, ship distress signals, smoke candles, and other emergency signal devices; and (c) educational rockets and toy propellant device type engines used in such rockets when such rockets are of nonmetallic construction and utilize replaceable engines or model cartridges containing less than two ounces of propellant and when such engines or model cartridges are designed to be ignited by electrical means.

3. "Open-burning fires" means: setting fire to or the burning of any grass, wood, or other combustible material outside of a completely enclosed structure (i.e., a house or other building) and including, but not limited to, the following activities and objects commonly known as open-burning fires:

(a) campfires; (b) fires in fire rings, fire pits, or grates; and (c) the use of stoves, broilers, or bar-b-ques whether using either coal, wood, charcoal, or any other combustible material except propane or gas as a fuel.

4. "Open-burning fires" does not include:

(a) smoking when in an enclosed vehicle or building or while stopped in an area at least three feet in diameter that is barren or cleared of all flammable material; and (b) stoves, broilers, or bar-b-ques using propane or gas as a fuel.

D. Open-Burning Fires and the Sale, Use and Possession of Fireworks Prohibited.

1. As defined in this Ordinance, open-burning fires and the sale, use, and possession of fireworks are prohibited without the express written consent of the Town Administrator.

E. Severability. If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Ordinance that can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable.

F. Effective Dates. This Ordinance shall become effective immediately. This Ordinance shall expire on August 31, 2007.

INTRODUCED on July 5, 2007, read by title, passed by a vote of 4 to 1, and ordered published by title.

TOWN OF MARBLE, COLORADO

By: Hal Sidelinger
Hal Sidelinger, Mayor

ATTEST:

Karen Mulhall
Karen Mulhall, Town Clerk