

Memorandum

REPORT TO: City Commission

FROM: Josh Waldo, Fire Chief

SUBJECT: Ordinance 2134 Provisional Adoption, Amending Chapter 18, Article 5 (Fireworks) of the Bozeman Municipal Code, Prohibiting the Sale and Discharge of Fireworks within the City Limits of Bozeman without a Permit and Prohibiting the Discharge of Fireworks in County Enclaves Wholly Surrounded by the City Limits of Bozeman without a Permit

MEETING DATE: April 18, 2023

AGENDA ITEM TYPE: Ordinance

RECOMMENDATION: I move to provisionally adopt Ordinance 2134 prohibiting the sale and discharge of fireworks within the City Limits of Bozeman without a permit and prohibiting the discharge of fireworks in county enclaves wholly surrounded by the City Limits of Bozeman without a permit.

STRATEGIC PLAN: 3.1 Public Safety: Support high quality public safety programs, emergency preparedness, facilities, and leadership.

BACKGROUND: Prior to May 3, 2004, it was illegal to sell, possess or discharge fireworks inside the City of Bozeman. On May 3, 2004, Ordinance 1612 passed amending the restrictions on fireworks to the current rules that are found in [Chapter 18, Article 5](#) of the Bozeman Municipal Code. The current language found in the Municipal Code is both confusing to residents and difficult for city staff to enforce.

Today the Bozeman Municipal Code allows for the discharge of certain types of fireworks during the following times,

- Between 12:00 p.m. July 3 and 12:00 a.m. July 4;
- Between 12:00 p.m. July 4 and 1:00 a.m. July 5;
- Between 12:00 p.m. July 5 and 12:00 a.m. July 6;
- Between 11:00 p.m. on December 31st and 1:00 a.m. on January 1st

Permitted fireworks are the following type of Class C "common fireworks" among those listed in federal law:

1. A cardboard or heavy paper cylindrical tube or cone that:
 - a. Produces a shower of color and sparks that reach a maximum of 15 feet;
 - b. May whistle or pop; and
 - c. Is not designed to explode or leave the ground;
2. A pyrotechnic wheel device:
 - a. May be attached to a post or tree; and
 - b. Contains up to six "driver" units or tubes;
3. Any device that:
 - a. Spins, jumps, or emits popping sounds when placed on the ground;
 - b. Does not exceed a height of 15 feet when discharged; and
 - c. Does not travel laterally more than ten feet on a smooth surface when discharged;
4. Sparklers under 12 inches in length which do not have a magnesium make-up, glow worms, snakes, party poppers, trick noisemakers; and
5. Certain mortar type aerial devices and multi-shot cakes that are found acceptable by the fire chief.

Understanding what fireworks are permissible by the Municipal Code is difficult and annually results in numerous fireworks that do not meet the criteria above being discharged in the city.

Further, much about the city and climate have changed since Ordinance 1612 was adopted in 2004.

Density: As the City continues to encourage increased density in our developments to help with our affordable housing and limit sprawl, separation between properties, structures, and public areas lessens. It is a regular occurrence at this point for city staff to field phone calls during and after the July 4th holiday related to fireworks debris on people's roofs, yards, and in the public streets. Additionally, with people living closer together, there is an increase in noise complaints each year.

Drought / Fire Danger: As the City is adapting to our changing climate, the frequency for drought conditions in the summer months increases. With the number of agriculture areas, parks, and open spaces located within the city, the fire risk for these areas is high already during the July 4th holiday and a

drought situation only raises this risk. Adjusting to drought conditions is often a rapid process and creates challenges when we attempt to communicate and enforce changes to the current fireworks rules in the city.

Noise: Many of the calls that are fielded by city staff leading up to, during, and after the July 4th holiday are related to the noise and the issues it creates for members of our community who are suffering from PTSD, families with small children, and pets.

These issues of fire danger, drought and noise do not recognize city limit boundaries. Montana law provides authority for the city to regulate acts or conduct calculated to disturb the public peace within the city and within 3 miles of the city limits. We are recommending this ordinance extend to the county enclaves within the city. A map showing current enclaves is attached. These areas are subject to change as the city annexes property.

UNRESOLVED ISSUES: None at this time

ALTERNATIVES: As suggested by the City Commission

FISCAL EFFECTS: None

Attachments:

[Fireworks Ordinance 2134 Final \(002\).pdf](#)

[City Limits with enclaves.pdf](#)

Report compiled on: April 6, 2023