

MINUTES OF THE HUNTSVILLE TOWN COUNCIL MEETING
Thursday, July 14, 2022, 5:30 p.m.
Huntsville Town Maintenance Office, 165 South 7500 East, Huntsville, Utah

Name	Title	Status
Richard L. Sorensen	Mayor	Excused
Bruce Ahlstrom	Council Member	Present
Kevin Anderson	Council Member	Present
Sandy Hunter	Council Member	Present
Artie Powell	Council Member	Present
Beckki Endicott	Clerk	Present
William Morris	Legal Counsel	Excused

Citizens: PCM Liz Poulter

Zoom: None

1-Mayor Pro Temp Kevin Anderson called the meeting to order.

2-Discussion and/or action on fireworks restrictions for Huntsville Town starting July 18th. (See Attachment #1 & #2) Beckki read the letter from Weber Fire Marshall, David Reed. The letter pointed to the hazardous fire conditions that exist in the area and recommends banning fires and fireworks in the area. Beckki stated she was contacted by David Reed yesterday. The state code describing the mechanism for a ban, which the Huntsville Town Council may impose is 15A-5-202.5. The Fire Marshall will impose a ban on fireworks on the unincorporated areas of Weber County starting on July 18th. Attorney Morris drew up a possible ordinance for the Town Council to consider. The ordinance would allow the Town Council to declare a ban on the recommendation of the Fire Marshall and would be in Chapter 2 of the Huntsville Town Code for current and future use.

There was a discussion about the scope of the proposed ordinance. The ordinance would be added to the Huntsville Town Code permanently. The ban, recommended by the Fire Marshall and voted on by the Town Council, would last for a period of 90 days and then expire. The ban would ban commercial and consumer fireworks.

The Town Council members could not remember any time that Huntsville Town has banned fireworks in the Town limits. Town Council Members commented the ordinance gives the Town Council's autonomy to the Fire Marshall. Town Council Members spoke in favor of keeping the autonomy to make its own decisions. The Town Council looked at State Statute 15A-5-202.5 and the requirements for restriction. The Town Council members discussed the requirements for restriction and found that there were requirements that could not be met for the Town Council to legally restrict fireworks. The conditions of 15A-5-202.5 were not met:

3. A municipal legislative body, the state forester, or a metro township legislative body may close a defined area to the discharge of fireworks due to a historical hazardous environmental condition under paragraph 1 if the legislative body or state forester:

3.1. makes a finding that the historical hazardous environmental condition has existed in the defined area before July 1 of at least two of the preceding five years;

3.2. produces a map indicating the boundaries, in accordance with paragraph 2, of the defined area described; and

3.3. before May 1 of each year the defined area is closed, provides the map described in paragraph 3.2 to the county in which the defined area is located.

4. A municipal legislative body, the state forester, or a metro township legislative body may not close an area to the discharge of fireworks due to a historical hazardous environmental condition unless the legislative body or state forester provides a map, in accordance with paragraph 3.

TC Member Powell suggested putting out a letter to residents stating it is an extremely dry year and it is the desire of the Town Council not to restrict fire ignition sources, including fireworks. The Town Council wants to let residents know to be extremely cautious around fire and fireworks. If a fire is started by residents, they will be held liable for damages and costs of fighting the fire.

TCM Sandy Hunter motioned to not approve Ordinance 2022-7-14 and not prohibit fireworks in Huntsville Town. In addition, the Town Council will send communication to residents asking them to be cautious with fireworks and fire the rest of the season.

TCM Anderson stated the Town Council is sympathetic to the Fire Marshall and they would like to be responsible citizens and take appropriate measures to encourage people to be careful and cautious in their use of fireworks. The Town Council is concerned about giving municipal authority to the Fire Marshall as well as the need to comply with the Utah State Code. The Town Council agrees with the concerns of the Fire Marshall and are not acting out of disregard to the Fire District.

TCM Bruce Ahlstrom seconded the motion. All votes Aye. Motion passes.

TCM Bruce Ahlstrom motioned to adjourn. TCM Powell seconded the motion. All votes Aye. Motion passed.

Meeting Adjourned at 6:07 p.m.


Beckki Endicott, Huntsville Town Clerk

Board of Trustees



2023 W. 1300 N.
Farr West, UT 84404
(801) 782-3580

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Rob Vanderwood
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July 13, 2022

Huntsville Town Council,

I have been asked to provide guidance regarding the currently existing environmental conditions that are in effect, as they may impact your legislative bodies' evaluation of fireworks restrictions based on current conditions. The city council, by state law, sets the firework restrictions.

The state will be going into stage 1 fire restrictions starting July 18th. This means the entire Ogden upper valley will be closed for fireworks leaving only Huntsville open to light fireworks.

The current conditions present very hazardous fire potential during this fireworks season. This is particularly true for Huntsville, as the entire town is located within a wildland interface area, or the type of area described in Utah Code §15A-5-202.5(1)(b)(1).

Given these factors and conditions, as the fire code official, I have determined that hazardous environmental conditions exist that necessitate the controlled use of ignition sources in the entirety of Huntsville. I recommend that your entity restrict ignition sources, including fireworks, and prohibit their use throughout Huntsville. Weber County has historically closed Weber County east of Harrison but Huntsville, as a city, can determine if they want these restrictions or leave the city open to fireworks. Let know your decision so I can post restrictions and get our map updated.

Please feel free to contact our office should you have any questions.

David Reed

Deputy Chief/Fire Marshal
801.782.3580 ext. 205
dreed@weberfd.com

**HUNTSVILLE TOWN
ORDINANCE NO. 2022-7-14**

FIREWORKS RESTRICTIONS

AN ORDINANCE OF HUNTSVILLE TOWN, UTAH, ADOPTING FIREWORKS RESTRICTIONS; SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Huntsville Town (hereafter referred to as “Town”) is a municipal corporation, duly organized and existing under the laws of the State of Utah;

WHEREAS, *Utah Code Annotated* §10-8-84 and §10-8-60 authorize the City to exercise certain police powers and nuisance abatement powers, including but not limited to providing for safety and preservation of health, promotion of prosperity, improve community well-being, peace and good order for the inhabitants of the Town;

WHEREAS, *Utah Code Annotated* §10-8-47 states that the “. . . municipal legislative body may regulate and prevent the discharge of firearms, rockets, powder, fireworks or any other dangerous or combustible material.....”

WHEREAS, the Town desires to comply with the limitations set forth in *Utah Code Annotated* §11-3-8, and *Utah Code Annotated* §53-7-220 through §53-7-225;

WHEREAS, *Utah Code Annotated* §53-7-225(5) authorizes the City to “prohibit any person from discharging class C common state approved explosives: (a) as provided in Subsection 15A-5-202.5(1)(b); or (b) in accordance with a municipal ordinance prohibiting the negligent discharge of class C common state approved explosives.”

WHEREAS, *Utah Code Annotated* §15A-5-202.5(1)(b) states that “[w]hen the fire code official determines that hazardous environmental conditions necessitate controlled use of any ignition source, including fireworks, lighters, matches, sky lanterns, and smoking materials, any of the following may occur: 1. If the hazardous environmental conditions exist in a municipality, the legislative body of the municipality may prohibit the ignition or use of an ignition source in mountainous, brush-covered, or forest-covered areas or the wildland urban interface area, which means the line, area, or zone where structures or other human development meet or intermingle with undeveloped wildland or land being used for an agricultural purpose.”

WHEREAS, the Town Council finds that the Town includes mountainous, brush-covered areas, or undeveloped wildland urban interface areas, or land uses for agriculture purposes;

WHEREAS, the Town desires to mitigate the risk of fire caused by certain fireworks;

WHEREAS, the Town desires to otherwise regulate the nuisance and negligent discharge of fireworks;

NOW, THEREFORE, be it ordained by the Town Council of Huntsville Town as follows:

Section 1: Repealer. Any word other, sentence, paragraph, or phrase inconsistent with this

Ordinance is hereby repealed and any reference thereto is hereby vacated.

Section 2: **Adoption.** Chapter 2.06 of the *Huntsville Municipal Code* is hereby adoption to read as follows:

2.06 FIREWORKS

2.06.010 Purpose and Definitions.

1. Purpose. The purpose of this Chapter is to balance the lawful use of consumer fireworks while implementing certain limitations set forth in *Utah Code Annotated* §15A-5-202.5(1)(b) and *Utah Code Annotated* §53-7-225(5).
2. Findings. The City Council finds that Huntsville Town, Utah, has hazardous environmental conditions that exist and threaten public health, safety, and welfare. Specifically, the City Council finds that area located on mountainous foothills, brush-covered areas, and areas in the wildland urban interface area, which means the line, area, or zone where structures or other human development meet or intermingle with undeveloped wildland or land being used for an agricultural purpose presents a fire hazard that threatens the health, safety, and welfare of the public.
3. Definitions. For the purpose of this Chapter, the following definitions apply:
 - a. "Consumer fireworks" means a class C explosive defined in *Utah Code Annotated* §53-7-202. It also means a retail explosive material classed by the American Pyrotechnics Association (APA) under Standard 87-1 as 1.4G and/or 1.4S (formerly known as Common Fireworks) used as novelties and acceptable for sale to the public when manufactured, labeled, and sold in conformance with the regulations of the U.S. Consumer Product Safety Commission (CPSC) published in Title 16, CFR.
 - b. "Aerial device" means a consumer firework as defined under Utah Rule R710-2-3, and also includes aerial consumer fireworks set forth in *Utah Code Annotated* §53-7-202 such as a bottle rocket, aerial salute, a flash shell, a comet, a mine, a cake of projectile pyrotechnic composition, a roman candle, a rocket mounted on a wire or stick.

2.06.020 Limitations Actions.

1. Subsection 15A-5-202.5(1)(b) Action. Controlled use of any ignition source is authorized subject to:
 - a. Determination. The Town Council hereby delegates to the Fire Marshall authority to determine under *Utah Code Annotated* §15A-5-202.5(1)(b) when a hazardous environmental condition exists that necessitates controlled use of any ignition source, including: consumer fireworks, lighters, matches, sky lanterns, and other combustible or smoking materials.
 - b. Prohibition. Upon making a determination that a hazardous environmental condition exists that necessitates controlled use of any ignition source, the Fire Marshall shall issue a declaration that:
 - i. Identifies the ignition source materials that are prohibited, including: consumer fireworks, lighters, matches, sky lanterns, and other combustible or smoking materials.
 - ii. Provides the terms of the prohibition not to exceed ninety (90) days.
 - iii. May include a map or description of the area where the prohibition is effective

- where the prohibition is limited to a geographical area.
2. Section §53-7-225(5) Negligence. The following limitations apply to aerial devices and negligently discharging any class C common firework:
- a. The consumer use of any aerial device may be determined to be a public nuisance, presumed negligent, and prohibits the discharge of the same within the Town at the determination of the Fire Marshall when fire or drought conditions exist.
 - b. The Fire Marshall, or their designee, may determine when any person is in violation of this Chapter, a hazardous environmental condition exists, or a person is negligently discharging any class C common firework and confiscate the same.
 - c. The unauthorized discharge of any firework or other explosive device other than a class C common firework is a public nuisance and presumed to be negligent.

2.06.030 Liability.

Any person who discharges any firework is liable for the same.

2.06.040 Enforcement and Penalty.

The Town may abate any firework or discharge of the same that is deemed by the City to be a public nuisance. The Town may also seek injunctive and other relief provided by law. A violation of this Chapter is an infraction and subject to a fine not to exceed \$100.00.

Section 3: Severability. If a court of competent jurisdiction determines that any part of this Ordinance is unconstitutional or invalid, then such portion of this Ordinance, or specific application of this Ordinance, shall be severed from the remainder, which remainder shall continue in full force and effect.

Section 4: Effective date. This Ordinance shall be effective immediately upon posting or publication after final passage.

ADOPTED AND APPROVED on this ____ day of _____, 2022.

Mayor

ATTEST:

Town Clerk

CERTIFICATE OF PASSAGE AND PUBLICATION OR POSTING

According to the provision of U.C.A. §10-3-713, 1953 as amended, I, the Town Clerk of the Huntsville Town, Utah, hereby certify that foregoing Ordinance was duly passed and published or posted at: 1) _____, 2) _____, and 3) _____ on the above referenced dates.

Town Clerk

DATE: _____