

Thank you for your letter regarding fireworks in Missoula County. We share your concerns regarding the dangers to people, property and pets caused by the irresponsible use of fireworks, especially when fire danger is high. Every year, we receive numerous phone calls and letters from concerned citizens such as yourself. Regrettably, we have no legal authority to restrict the use of fireworks in the County.

Missoula County is a "general powers" government. Under the Montana Constitution, as a general powers government, Missoula County has only those powers specifically granted to it by statute. While the Legislature has seen fit to grant cities the power to regulate or prohibit the discharge of fireworks, it has not given that power to counties.

We can regulate, and do prohibit, the use of fireworks in all dedicated County parks and all County recreation parcels. That action was taken in 1987 by Resolution Number 87-090 and can be enforced by the Sheriff's Office. In 1992, the Commissioners adopted Resolution Number 92-037, Fireworks Stand Regulations, to govern the sale of lawful fireworks in the County as shown in MCA 50-37-105. Also, during periods of extreme fire danger when Stage 2 Fire Restrictions are imposed, use of fireworks is prohibited on private land. We are not currently under Stage 2 Fire Restrictions.

Without enabling legislation from the State, Missoula County cannot prohibit fireworks in the County. Even if such authority was available, enforcement of such a ban would be formidable. The use of fireworks in the City of Missoula is banned, but again, enforcement is the main hurdle. If you live in the City limits, you can call the Fireworks Report line at 258-4850 and we encourage you to do so. That line will be staffed starting Monday, June 29th.

If we can provide any further information, please feel free to contact our office. Again, we share your concerns and appreciate your comments.

Sincerely
BOARD OF COUNTY COMMISSIONERS

RESOLUTION NO. 87-090

TO PROHIBIT THE USE OF FIREWORKS IN COUNTY PARKS
AND RECREATION PARCELS

WHEREAS, it has been brought to the attention of the Board of County Commissioners that there have been numerous incidents involving the use of fireworks in County parks and recreation parcels; and

WHEREAS, at its July 9 meeting, the Missoula County Park Board recommended that the use of fireworks in County parks and recreation parcels be prohibited; and

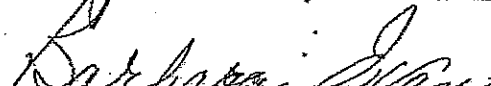
WHEREAS, by authority vested in the Board of County Commissioners for management of County property and preservation of order, it is now found necessary to make and enforce rules controlling the improper actions of residents in regard to use of fireworks in County parks and recreation parcels and to keep the peace and tranquility of said areas;

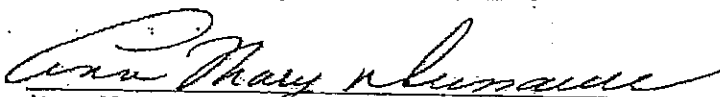
NOW, THEREFORE, BE IT RESOLVED that use of fireworks be prohibited from all dedicated County parks and from all County recreation parcels, except for the Fourth of July celebrations at Fort Missoula and at the Missoula County Fairgrounds, and unless otherwise specified. A copy of this resolution will be delivered to the County Sheriff, County General Services Department and to the City Parks and Recreation Department.

APPROVED AND SIGNED, this 12th day of August,
1987.

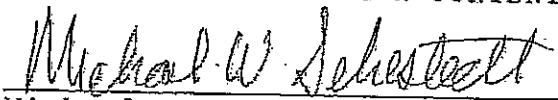
BOARD OF COUNTY COMMISSIONERS


Janet L. Stevens, Chairwoman

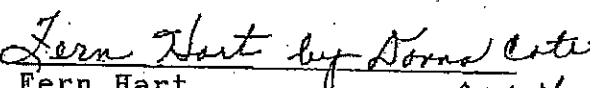

Barbara Evans, Commissioner


Ann Mary Dussault, Commissioner

APPROVED AS TO FORM & CONTENT:


Michael W. Sehestedt
Deputy County Attorney

ATTEST:


Fern Hart
Clerk & Recorder

RESOLUTION NO. 92-037

FIREWORKS STAND REGULATIONS

WHEREAS, it is in the public's best interest to adopt the following regulations governing the sale of lawful fireworks as enumerated in MCA 50-37-105, and to incorporate by reference Title 50, Chapter 37, titled "Fireworks," of the Montana Code Annotated, as amended; and

WHEREAS, the Board of County Commissioners has consulted with Missoula Rural Fire District personnel concerning these regulations;

NOW, THEREFORE BE IT RESOLVED, that the Missoula County Fireworks Stand Regulations are hereby set forth as follows:

1. All potential sellers of fireworks must obtain a Zoning Compliance Permit from the City-County Zoning Officer. This permit will be necessary in order to obtain a permit from the Missoula County Treasurer's Office. Permits must be prominently displayed in stands.
2. Fees assessed for the operation of a fireworks stand are \$5.00 per week, or fraction thereof, and shall be payable at the time of issuance.
3. Fireworks stands thirty (30) feet or less in length must have at least one unobstructed exit and one two-gallon pressurized water extinguisher or charged garden hose inside the stands; stands over thirty (30) feet long shall have at least two (2) of these extinguishers or hoses and two (2) unobstructed exits as remote from each other as possible.
4. No one under eighteen (18) years of age shall be employed for the purpose of selling fireworks.
5. No smoking shall be allowed within the fireworks stand. At any place where permissible fireworks are sold or displayed, a sign reading "NO SMOKING" must be posted with letters at least four (4) inches in height and $\frac{1}{2}$ inch in stroke where customers are most likely to read it.
6. Fireworks shall not be discharged:
 - a. Within the exterior boundaries of a state forest, state park, or state recreation area;
 - b. Within one hundred (100) feet of a fireworks retail sales location;
 - c. From, inside, or toward a motor vehicle;
 - d. In the vicinity of another person or group of people OR ANY ANIMAL in a manner likely to expose them to the risk of injury; or
 - e. In any dedicated County park or any County recreation parcel, except for the Fourth of July celebrations at Fort Missoula and Missoula County Fairground, and unless otherwise specified.

7. Retail sale of fireworks shall be conducted from stands located at least 300 feet from a church or hospital, 50 feet from any flammable liquid dispensing device or installation, 50 feet from other inhabited buildings, and 30 feet from any public roadway. The Zoning Officer may grant a waiver of the applicable setback in cases where both the setback and 50-foot clear zone cannot be met, with the concurrence of the Missoula Rural Fire District Chief and County Surveyor or their designees. The waiver shall be the minimum necessary to accommodate the clear zone. Any adverse administrative determination under this paragraph may be appealed to the Board of County Commissioners upon such notice and terms as they may set at their discretion.
8. Parking of vehicles used to transport Class A or B explosives or flammable and combustible liquids is prohibited within 100 feet of a retail fireworks stand.
9. All weeds, dry grass, and combustible material shall be cleared for a minimum distance of 25 feet in all directions from the stand.
10. Electrical wiring shall be in a safe condition, and if found upon inspection to be unsafe shall be upgraded to comply with the applicable provisions of the National Electrical Code adopted by the building codes bureau of the Department of Commerce.
11. Open flame devices of any kind are prohibited in retail fireworks stands, and within 25 feet of the stand.
12. Fireworks shall be displayed in such a manner that they are out of reach of the general public.
13. No one but employees shall be allowed inside the stand.
14. All fireworks stands will be subject to inspections by an appropriate rural fire district.
15. These regulations shall be posted in the stand along with the permit.
16. Fireworks may only be sold from June 24th to and including July 5 in any year.
17. After dismantling stands, the sites must be completely cleaned up.
18. A violation of MCA, Title 50, Chapter 37, Part I is punishable by a fine of not less than \$100 nor more than \$500 or, in the case of individuals, the members of a partnership, and the responsible officers and agents of an association or corporation, by imprisonment in the County jail for a period not less than thirty (30) days nor more than six (6) months, or by both such fine and imprisonment.
19. Applicants for permits must provide certificates of insurance. Bodily injury and property damage liability coverage shall be provided with limits or not less than \$100,000 combined single limit (CSL).
20. In addition to the penalties stated above, a conviction for violation of this resolution may also result in denial of license in the future. In order to initiate denial, the County Attorney's Office, at the request of the Sheriff or Fire Chief must give the licensee written

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notice of the violation and of a hearing before the County Commissioners not less than (3) days before the hearing.

NOW, THEREFORE, BE IT RESOLVED, that the Board of County Commissioners has adopted these regulations to govern fireworks stands. This resolution shall remain in effect until or unless the state or federal government changes the laws in regard to the sale of fireworks or until it is superseded by another resolution of the Board of County Commissioners.

APPROVED AND SIGNED, this 13th day of May, 1992.

BOARD OF COUNTY COMMISSIONERS

Barbara Evans
Barbara Evans, Chairman

Janet Stevens
Janet Stevens, Commissioner

Ann Mary Dyssault
Ann Mary Dyssault, Commissioner

APPROVED AS TO FORM & CONTENT:

Michael W. Shestak
Deputy County Attorney

ATTEST:

Wendy Cromwell
Clerk & Recorder

RESOLUTION 2005-058
LINDBERGH LAKE FIREWORKS AND OPEN BURNING

WHEREAS, the residents of Lindbergh Lake Zoning District 25-A have expressed concern about the fire danger associated with the discharge of fireworks, and

WHEREAS, the area encompassed by Lindbergh Lake Zoning District 25-A is forested and contains a substantial number of developed properties, and

WHEREAS, the Forest Service or DNRC establishes the fire danger in the area,

WHEREAS, the discharge of fireworks creates a fire hazard.

NOW, THEREFORE, be it resolved, pursuant to the authority granted by MCA 7-33-2204, open burning in the form of discharging fireworks be and same is hereby prohibited in Lindbergh Lake Zoning District 25-A whenever the fire danger determined by the Forest Service or DNRC is moderate or higher.

DATED this 28th day of June, 2005.

BOARD OF COUNTY COMMISSIONERS

Jean Curtiss
Jean Curtiss, Chairman
Missoula County Commissioners

NOT AVAILABLE FOR SIGNATURE

Barbara Evans, Missoula County Commissioner

Bill Carey
Bill Carey
Missoula County Commissioners

ATTEST

[Signature]
Clerk and Recorder

APPROVED AS TO FORM AND CONTENT:

[Signature]
Deputy County Attorney



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