

12

LARAMIE COUNTY CLERK BOARD OF COUNTY COMMISSIONERS AGENDA ITEM PROCESSING FORM

1. DATE OF PROPOSED ACTION: May 1, 2012

2. AGENDA ITEM: ☐ Appointments ☐ Bids/Purchases ☐ Claims
☐ Contracts/agreements/leases ☐ Grants ☐ Land Use: Variances/Board App/Plats
☐ Proclamations ☐ Public Hearings/Rules & Regs ☐ Reports & Public Petitions
☐ Resolutions ☐ Other _____

3. DEPARTMENT: LARAMIE COUNTY COMMISSIONERS

4. APPLICANT: _____ AGENT: Bill McHenry, Fire Warden

5. DESCRIPTION: CONSIDERATION OF A RESOLUTION ADOPTING AN AMENDMENT TO THE LARAMIE COUNTY FIREWORKS REGULATIONS ALLOWING SALE OF FIREWORKS TO WYOMING RESIDENTS IN THE EVENT OF A "PARTIAL CLOSURE" DUE TO FIRE DANGER PURSUANT TO W.S. §16-3-103(b).

Term: _____ From: _____ To: _____ Amount: _____

6. DOCUMENTATION: (1) Original(s) and (4) copies

RECEIVED AND APPROVED AS
LAWFUL BY THE CLERK OF THE
LARAMIE COUNTY BOARD OF
COMMISSIONERS
MAY 1 2012

<u>Clerks Use Only:</u>	
<u>Commissioner</u>	<u>Signatures</u>
Woodhouse _____	Co. Attorney _____
Thompson _____	Deputy Co Atty. _____
Humphrey _____	Grants Manager _____
Action _____	Outside Agency _____
Postponed/Tabled _____	

RESOLUTION # 120501-12

RESOLUTION ADOPTING AN AMENDMENT TO THE LARAMIE COUNTY FIREWORKS REGULATIONS ALLOWING SALE OF FIREWORKS TO WYOMING RESIDENTS IN THE EVENT OF A "PARTIAL CLOSURE" DUE TO FIRE DANGER PURSUANT TO W.S. §16-3-103(b)

WHEREAS, W.S. §16-3-103(b) (2011) authorizes the Board of Laramie County Commissioners to adopt emergency rules in advance of the provision of notice and opportunity to be heard by the public pursuant to W.S. § 16-3-103(a) (2011); and

WHEREAS, The regulation of the use and sale of fireworks by the governing body of Laramie County within the confines of Laramie County is authorized by W.S. § 35-10-208; and

WHEREAS, it is the intent of the Board of Laramie County Commissioners, subsequent to the emergency adoption of this amendment to the Laramie County Fireworks Regulations, to adopt said amendment through permanent rules pursuant to the notice and comment requirements of W.S. § 16-3-103(a) (2011), in regard to the subject matter of this resolution; and

WHEREAS, W.S. § 35-10-208 authorizes and imposes the duty upon the Board of Laramie County Commissioners to pass such ordinances or regulations as required to promote the public health, safety, morals and general welfare of the county; and

WHEREAS, the Laramie County Fireworks Regulations currently prohibit the sale of Fireworks to Wyoming Residents in the event that the discharge of fireworks within Laramie County is prohibited as a result of a "partial closure" pursuant to W.S. § 35-9-301 which orders the imposition of restrictions on or prohibits designated activities within the confines of Laramie County in order to limit the use of fire or fire hazard; and

WHEREAS the ban on the discharge of fireworks pursuant to W.S. §35-9-301 and Chapter 9 of the Rules and Regulations of the Board of Land Commissioners of the State of Wyoming in the case of a "partial closure" is limited to "unimproved areas" though, in the event of a "full closure" the ban is and would remain County-wide; and

WHEREAS after consultation with the Laramie County Fire Warden and representatives of the Fireworks sales industry, it has been determined that a "shooting site" may be designated. That is, a location where under the supervision of law enforcement and fire suppression professionals, individuals may discharge fireworks in a safe manner in the event of a "partial closure" and

WHEREAS in the event that a "shooting site" is offered and operational, it will provide the basis for an exception to the general prohibition of fireworks discharge under a "partial closure" in the remainder of Laramie County at the designated location, and will do so in a manner that is protective of the health and welfare of the citizens of Laramie County; and

WHEREAS, the Board of Laramie County Commissioners find that in order to protect the health, safety and welfare of its citizens, it is necessary to adopt by emergency rules a modification to the current Laramie County Fireworks Regulations allowing for an exception to the general ban on the sales of fireworks to Wyoming residents in the event of a "partial closure" and for an exception allowing for the discharge of fireworks solely at a "shooting site" designated by the Laramie County Fire Warden under such conditions as the Fire Warden feels are fully protective of the health and property of Laramie County residents; and

C. J. Warden
Attorney

COPY OF RECORD

WHEREAS, the Board of Laramie County Commissioners find that the impact to the health, safety and welfare to citizens of the County is significant enough to invoke emergency rules pursuant to W.S. § 16-3-103(b);

FINDINGS: Based on evidence provided to the Board of Laramie County Commissioners concerning the health, safety and welfare impacts resulting from a ban on fireworks sales to Wyoming residents as the result of a “partial closure” in Laramie County, the Board finds as follows:

- 1) Currently the Fireworks regulations do not allow for the sales of fireworks to Wyoming Residents in the event of a partial closure. It is unclear that this prohibition has greatly deterred fireworks discharge during the term of the closure.
- 2) The presence of a shooting site in previous years appears to have reduced the number of fireworks related complaints from citizens.
- 3) The imposition of the ban on sales to Wyoming residents has been reported to work economic hardship on businesses involved in Fireworks sales.
- 4) The major season of fireworks sales has started and the County Fire Warden and representatives of the Fireworks Sales industry have agreed to cooperate in the creation and operation of a shooting site.
- 5) The delay occasioned by compliance with the full rule-making process may negatively affect the economic health of local businesses.
- 6) In the absence of evidence that the prohibition on sales to Wyoming residents appears to reduce Fireworks related damage or complaints and the apparent evidence that a shooting site reduces same, the amendment of the regulations does not appear an imprudent step.

ACTION: Based on these findings, the Board of Laramie County Commissioners hereby adopts the following amendment to the Laramie County Fireworks Regulations W.S. § 16-3-103(b), which rules are effective immediately upon adoption of this resolution.

NOW THEREFORE BE IT RESOLVED BY THE GOVERNING BODY OF LARAMIE COUNTY, WYOMING, that the current Section IV of the Laramie County Fireworks Regulations titled “EXTREME FIRE DANGER” is stricken and replaced by the following modified section. This amendment is adopted as emergency rules and is effective upon passage of this resolution:

Section IV. EXTREME FIRE DANGER-BANS OF DISCHARGE OF FIREWORKS AND EXCEPTION TO BAN OF DISCHARGE OF FIREWORKS IN THE EVENT OF A “PARTIAL CLOSURE” OF LARAMIE COUNTY DUE TO FIRE DANGER

At any time the Board of Laramie County Commissioners passes a Resolution determining a “partial closure” due to fire danger, pursuant to W.S §35-9-301 and Chapter 9 of the Rules and Regulations of the State of Wyoming Board of Land Commissioners, banning the use of fireworks in the unimproved areas of Laramie County, sales of fireworks to Wyoming residents shall continue to be permitted. In the event of a “partial closure” the discharge of fireworks in unincorporated Laramie County is banned with one exception, unless otherwise modified by resolution: The discharge of fireworks shall be permitted on property designated by the Laramie County Fire Warden as a “shooting site.” Said “shooting site” shall be subject to such policies, rules and regulations or impositions and restrictions as shall be determined in the discretion of the Laramie County Fire Warden and when open and under the supervision of the Fire Warden or his designees, the site will serve as the location in Laramie County where the discharge of fireworks is allowed in the event of an “partial closure.” Discharge of

fireworks in other areas of Laramie County shall be subject to any ban imposed by the resolution addressing fire danger.

In the event that a "full closure" due to fire danger and pursuant to W. S. 35-9-301 and Chapter 9 of the Rules and Regulations of the State of Wyoming Board of Land Commissioners is imposed, by operation of state law, a full ban on the discharge of fireworks in Laramie County is imposed. In the event of "full closure" sales of fireworks to Wyoming residents shall not be permitted. In the event of the imposition of a "full closure" the permit holders shall verify residency by inspecting any approved form of government issued photo identification. The permit holders shall also prominently display signs, to be provided by the Laramie County Fire Warden, stating in bold letters: "DUE TO EXTREME FIRE DANGER IT IS UNLAWFUL TO SELL TO WYOMING RESIDENTS AND DISCHARGE FIREWORKS IN LARAMIE COUNTY" on the interior and exterior of the fireworks stand.

PRESENTED, READ AND ADOPTED this 1st day of May, 2012.

BOARD OF LARAMIE COUNTY COMMISSIONERS

Gay Woodhouse
Gay Woodhouse, Chairman

ATTEST:

Debbye K. Lathrop
Debbye K. Lathrop, Laramie County Clerk

REVIEWED AND APPROVED AS TO FORM:

Mark T. Voss
Mark T. Voss, Laramie County Attorney