

RESOLUTION NO. 2015- 13

A RESOLUTION BY THE BOARD OF COUNTY COMMISSIONERS OF BROWN COUNTY, KANSAS, ENACTING COMPREHENSIVE OPEN BURNING REGULATIONS; SETTING FORTH PENALTIES FOR THE VIOLATION THEREOF; AND REPEALING PRIOR RESOLUTIONS CONCERNING OPEN BURNING

WHEREAS, K.S.A. 19-101a, *et seq.*, and amendments thereto, authorizes the Board of County Commissioners of Brown County, Kansas (hereinafter the "Board") to transact all County business and perform all powers of local legislation and administration it deems appropriate; and

WHEREAS, it has been determined by the Board that there is a need to set out a comprehensive regulatory practice regarding open burning in the unincorporated areas of Brown County, Kansas; and

WHEREAS, the practice of open burning is vital to the conduct of certain agricultural practices in Brown County, Kansas; and

WHEREAS, it is in the best interests of the citizens of Brown County that open burning is conducted in a safe manner and that proper fire protection be afforded during the conduct of such open burning.

NOW THEREFORE, be it resolved by the Board:

1. Open Burning. The open burning of any fields, lots, garden plots shall be prohibited except as allowed under the conditions set forth herein, except this Resolution shall not exempt any person from obtaining a permit when required by Kansas Administrative Regulations 28-19-645, 28-19-646, 28-19-647, or 28-19-648.

2. Household Trash "Household trash" is defined as that solid waste normally associated with the conduct of a household and does not include tires, metal debris, petroleum products, construction debris, or any materials prohibited for burning by the Secretary of the Department of Health and Environment of the State of Kansas or State or Federal Law. Household trash may be burned without a permit or prior notice

3. Conditions for Open Burning. Each open burning operation shall be subject to the following conditions:

a. Burn Restrictions. Open burning for any reason shall not occur on those days when the National Weather Service Rangeland Fire Index is in the High, Very High or Extreme categories, or when the Board or the Governor of the State of Kansas has imposed a ban on burning.

b. Permit & Notification of Intent to Burn. Each person planning an open burn shall notify the Brown County Sheriff's Office and obtain a permit from the Brown County Sheriff authorizing them to conduct an open burn on the subject property. Said permit shall remain in effect unless revoked by the Brown County Commission. The permit may not be assigned by the permit holder. The Brown County Landfill and Brown County Road and Bridge Department shall not be required to obtain a permit pursuant to this resolution.

Except as provided in subsection 3 below, two hours prior to initiating the burn, said person shall notify the Brown County Dispatch and provide the permit number, address location of the proposed burn including the nearest crossroad, and the name, address and telephone number of the person responsible for the proposed burn. Upon receiving the notice, the Brown County Dispatcher shall notify the Fire Chief or their designee at the local fire department where the burn will take place. The permit holder shall notify the Brown County Dispatch upon said burn being extinguished.

1. For fields, including CRP, rangeland, brush piles, structures, and storm damage debris, the permit holder shall have the permit number available at the burn location and the burn must be attended and supervised by the permit holder or designee until extinguished.

2. For drift wood, large brush piles containing trees and large hay bales, the permit holder may conduct a burn when an adequate safety area is prepared around the burn location by disking, burning or otherwise clearing combustible materials to insure the fire does not spread. The permit holder shall check the burn periodically until extinguished but shall not be required to be on site at all times during the burn.

3. For twine and net wrap, feed and seed sacks, farmstead waste, leaves and garden plots, burns may be conducted by a permit holder without notifying the Brown County Dispatch. However, the burn must be attended until extinguished.

Nothing in this resolution shall be construed to authorize the burning of any material that would otherwise be prohibited by State or Federal Law.

4. Responsible Party. For the purpose of any penalty to be assessed pursuant to any violation of this Resolution, it shall be considered prima facie evidence that the person owning, occupying or controlling any premises upon which an open burn is being conducted, voluntarily allowed said open burn to take place and is responsible for the burn.

5. Penalty. The violation of any of the provisions of this Resolution is hereby declared unlawful. Any person or persons responsible for any burn in violation of this Resolution shall be subject to the following penalties:

a. Each violation of the terms of this Resolution shall be deemed an unclassified misdemeanor and shall be subject to a fine of not less than \$200 and not more than \$500, determined as if the violation of the Resolution were a violation of Kansas statutes. In addition to any other method of initiating a criminal proceeding under applicable law, any law enforcement officer may initiate a criminal proceeding under this Resolution by making an offense report and serving a citation and notice to appear in court upon the alleged violator. The offense report shall be forwarded to the County Attorney for prosecution.

b. In addition to the penalties set out in Section 5a, any person or person who violate the provisions of this Resolution may be ordered to pay restitution to the fire units involved as follows: Two Hundred Dollars (\$200.00) per County Fire unit vehicle called to bring the fire under control for the first two (2) hours that each vehicle is in service, and One Hundred Fifty Dollars (\$150.00) per County fire unit vehicle for each additional hour that any County Fire unit vehicle remains in service, and, any and all expenses associated with bringing the fire under control as determined by the Fire Chief. Any funds collected under this provision shall be paid and/or credited to the appropriate fire department.

6. County Wide Burn Ban. From time to time, whenever conditions present a substantial risk to person or property within the County due to drought, wind, natural or man-made disasters or for security reasons, the Emergency Preparedness Director or the Brown County Commission may impose a county wide burn ban in the unincorporated areas of the county. Said ban shall be effective upon notice to the general public by any or all of the following methods: written notification to the Brown County Dispatch; written publication on the Brown County website; written publication the official county newspaper and/or oral notice through local media outlets. The County-wide burn ban shall remain in effect until the Emergency Preparedness Director or County Commission determines that the conditions resulting in the ban have been sufficiently alleviated so as to no longer constitute a serious danger to the general public. During the

period in which a burn ban is in effect, the Brown County Sheriff may deny requests for burn permits.

7. Prior Resolutions. All prior resolutions relating to burning regulated by this Resolution are hereby repealed.

8. Effective Date. This Resolution shall take effect and be in force from and after its publication once in the Official County newspaper.

IN WITNESS WHEREOF, the foregoing Resolution was adopted this 27th day of April, 2015.

BOARD OF COUNTY COMMISSIONERS
OF BROWN COUNTY, KANSAS

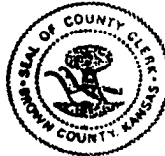
Warren L. Ploeger
Warren L. Ploeger, Chairman

Keith Olsen
Keith Olsen, Member

Steve Roberts
Steve Roberts, Member

ATTEST:

Dale Pal
Brown County Clerk



STATE OF KANSAS, BROWN COUNTY, SS:

This instrument was acknowledged before me, a Notary Public, on this 27th day of April, 2015 by, Warren L. Ploeger Keith Olsen and Steve Roberts, Brown County Commissioners.

Seal:

Dawn M. Boyles
Notary Public

