

RESOLUTION NO. 2016-03

**BEFORE THE BOARD OF COUNTY COMMISSIONERS
OF COWLEY COUNTY, KANSAS**

A RESOLUTION REGULATING OPEN BURNING IN COWLEY COUNTY, KANSAS.

WHEREAS, the governing body deems in the best interest of the public safety and of the economy of the agricultural community that open burning should be regulated within Cowley County, Kansas, and;

WHEREAS, changes in the overall makeup of certain portions of Cowley County, Kansas have created the need for diverse regulations and procedures to provide adequate fire protection for all citizens. Portions of Cowley County, which were once mainly agricultural areas, now have become populated areas with numerous residential structures interfaced with farm and other agricultural property. With the increased population in these areas, uncontrolled and unregulated open burning poses an unreasonable threat to the public safety. It is also acknowledged that some large portions of Cowley County, Kansas remain mainly agricultural areas and that open burning of grass and pasture is an important function in maintaining these areas. Without provisions for the open burning of pastureland, economic hardships could be imposed upon these property owners, and;

WHEREAS, the State of Kansas, Department of Health and Environment, Bureau of Air has adopted the Flint Hills Smoke Management Plan placing certain restrictions on open burning in Cowley County, Kansas;

NOW, THEREFORE, BE IT RESOLVED, by the Cowley County Board of County Commissioners to that the following regulations concerning open burning within Cowley County are hereby established:

For the purpose of this resolution "open burning" shall be defined as the burning of unwanted materials such as paper, trees, brush, leaves, grass and other debris, where smoke and other emissions are released directly into the air without passing through a chimney or stack. Open burning also includes incineration devices that do not control the combustion air to maintain an adequate temperature and do not provide sufficient residence time for complete combustion. Open burning pollutes the air and poses a fire hazard. The air pollution created by open burning can irritate eyes and lungs, obscure visibility, soil nearby surfaces, create annoying odors, and are a danger to those with respiratory conditions.

POLICY:

- 1) Any person or persons who conduct any outdoor open burning operations shall immediately prior to commencing the burning, contact the Cowley County Emergency Communications Center and provide information relating to the location of the burn site, nature of the material to be burned, the name and telephone number of the responsible party, and the estimated time when the burning is to begin. This person shall also be responsible for the notification of the Cowley County Emergency Communications Center when the burning is completed.
- 2) Nothing in this resolution shall relieve any property owner or other responsible parties from the obligations of obtaining the proper permit from the Kansas Department of Health and Environment.
- 3) The Officer in Charge or his/her designee of any fire service agency shall have the authority to deny any person permission to conduct open burning within their fire protection jurisdiction

based upon the current or expected weather conditions, the availability of fire suppression and support resources, or other conditions which may create an unreasonable risk to the public's safety. The Fire Chief of any Fire District with Cowley County, Kansas may at any time impose a partial or complete ban on open burning within his/her district.

- a. The Cowley County Emergency Communications Center will only issue burn permits when authorized to do so by the responsible jurisdictional Fire Departments via e-mail to ccecall@cowleycounty.org. In case of an emergency posing a clear and present danger, phone calls or radio communication will be acceptable in lieu of an email message.
- 4) The open burning of vegetation such as grass for pasture management or crop management on properties less than forty acres and all other allowed open burning not requiring a permit from KDHE, shall be permitted only after the following standards have been met or taken:
- a. Notification to the Cowley County Emergency Communications Center and the appropriate Fire Department has been made, and approval granted.
 - b. Wind speeds greater than five (5) miles per hour and less than fifteen (15) miles per hour.
 - c. A responsible adult constantly supervising all burning until the fire is extinguished.
 - d. An adequate water supply readily available unless given prior approval by the Officer in Charge or his/her designee of the fire service in the appropriate area.
 - e. The open burning shall not be initiated during nighttime, which for the purpose of this resolution is defined as the period from two hours before sunset until one hour after sunrise. A person shall not add material to a fire after two hours before sunset.
 - f. A person shall not conduct a burn that creates a traffic or other safety hazard. Should a law enforcement officer find the controlled burning operation to be creating a traffic safety hazard, said officer may request/direct the person(s) responsible for the controlled burn to extinguish all or part of the burning as necessary to alleviate the safety hazard.
 - g. Unless given approval by the Officer in Charge or designee of the fire service in the appropriate area.
- 5) Open burning shall not be conducted during the month of April with the following exceptions and approval of the jurisdictional Fire Department:
- a. Agriculture Open Burning operations for the purpose of range or pasture management and conservation reserve program (CRP).
 - b. Open burning operations for the purpose of range or pasture management and conservation reserve program (CRP) on properties less than forty acres in accordance to Section 5 of these regulations.

- c. Burning of residential trash carried out on premises containing five or less dwelling units and incidental to the normal habitation of the dwelling units in accordance to Section 7 of these regulations.
 - d. Open burning for cooking or ceremonial purposes, on public or private lands regularly used for recreational purposes.
- 6) The burning of trash or other debris which is carried out on residential premises containing five (5) or less dwelling units and is carried out incidental to the normal habitation of said dwelling(s) shall be permitted only after the following fire safety precautions have been taken:
- a. All such burning may only be conducted in an approved metal container, which is structurally sound to ensure the contents of said container will remain contained.
 - b. An approved protection screen with a maximum weave of 1/4 inch shall be installed on top of the container.
 - c. An area of bare soil or other approved noncombustible material shall surround the burn container for ten (10) feet in all directions.
 - d. A responsible adult must constantly supervise all burning.
 - e. A charged garden hose or a full bucket of water must be readily available to control any fires, which may occur.
 - f. Due to the volume of household trash burning which occurs on a routine basis within Cowley County, Kansas, unless required by a Fire Chief of a fire district within Cowley County, Kansas, no fire department notification is required for the burning of household trash in an approved container.
 - g. Trash burning shall not be conducted when the wind speed is in excess of 15 miles per hour.
- 7) Controlled burning status definitions:
- a. Status 1 - Dispatch issues burn permits based on previously e-mailed instructions from the jurisdictional Fire Department.
 - b. Status 2 - All requests within the district are referred to the Fire Department for consideration.
 - c. Status 3 - Jurisdictional Fire Department believes it is not safe to issue burn permits, e-mails are sent to Emergency Communications via ccecall@cowleycounty.org. Communications stops issuing burn permits in that jurisdiction until authorized to start again by the jurisdictional Fire Department.

Certain conditions such as extended periods with little or no rain or snow fall, may create dangerous conditions which will require that all open burning be prohibited. Upon the recommendations of the Cowley County Fire Chief's Association, the Board of County Commissioners for Cowley County, Kansas, may impose a ban on all outdoor burning, including household trash, for a period of time which hazardous conditions exist.

The Board of County Commissioners shall have the authority to take such protective actions as part of this resolution. If any Fire Chief, of any fire department within Cowley County, Kansas, believes that

conditions are such that an unreasonable risk to the safety and welfare of the citizens of Cowley County, Kansas, exist, he/she shall contact the Chairperson of the Cowley County Fire Chief's Association, and request an emergency meeting of the Association.

All Fire Chiefs within Cowley County, Kansas, shall be notified of the date and time of any emergency meeting. In addition to the Cowley County Fire Chiefs, the Cowley County Sheriff shall be informed of the emergency meeting. This meeting may be in person or via voice, video, electronic conference or electronic mail. In addition the Chairperson shall notify the County Administrator of said meeting. In reaching a consensus, the Fire Chiefs shall consider the frequency and intensity of recent grass fires. The general consensus of the Fire Chiefs, either in favor or against shall be reported to the County Administrator within twenty-four (24) hours of the meeting date by the Chairperson. The County Administrator may also request an emergency meeting of the Cowley County Fire Chief's Association to discuss the possible need for a countywide ban on open burning. When notified by the County Administrator, the Chairperson shall follow the same procedure as outlined above.

The Board of County Commissioners will have the ultimate decision as to the imposition of a countywide ban on open burning. Nothing in this resolution shall be interpreted as prohibiting the Board of County Commissioners from enacting a ban on outdoor burning without the recommendation of the Cowley County Fire Chief's Association. Implementation of the burn ban by the Cowley County Commissioners shall occur through action of the board by resolution. The burn ban shall stay in force until such time as the Cowley County Commission lifts the burn ban. The procedures for enacting the burn ban by the Cowley County Fire Chiefs Association shall be utilized in recommending a request to the Board of Cowley County Commission to lift the burn ban based on improved conditions with Cowley County.

BE IT FURTHER RESOLVED Any person who engages in or permits open burning upon his/her property, whether such property of owned by, leased or rented, and has not complied with the provisions of this resolution shall be in violation of this resolution and may upon conviction, be sentenced to serve no more than six (6) months and/or a fine not to exceed one thousand dollars (\$1,000.00). Additionally, such person may be held liable for the cost of fire suppression activities as necessary to control and extinguish the fire and may be held responsible for all damages associated with said fire. When calculating the expenses for fire suppression activities, the Fire Chief, shall use the current cost of fire suppression services as established by the United States Forestry Service.

ADOPTED AND APPROVED this 7th day of June, 2016.



Alan Groom, Chairman

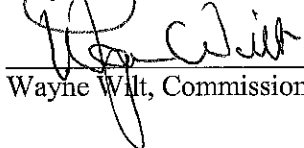
ATTEST:



Karen D. Madison, County Clerk



Gary Wilson, Vice Chairman



Wayne Wilt, Commissioner