

THE BOARD OF COUNTY COMMISSIONERS OF FRANKLIN COUNTY, KANSAS

RESOLUTION 07 -023

A RESOLUTION LIMITING OPEN BURNING WITHIN FRANKLIN COUNTY, KANSAS AND PROHIBITING OPEN BURNING WITHOUT A PERMIT AND ESTABLISHING PENALITIES FOR VIOLATIONS

WHEREAS, K.S.A. 19-101, provides that a county may exercise the powers of home rule to determine its local affairs and government authorization under the provisions of K.S.A. 19-101a; and

WHEREAS, the various fire districts that service the rural areas of Franklin County have experienced increased demands for fire fighting services which has placed a burden on both the fire districts' personnel and their budgets; and;

WHEREAS, the Board of County Commissioners believes that this is in the best interests of the County to adopt rules and regulations concerning open burning within the rural areas of the County in order to protect the health and property of the people of Franklin County, Kansas.

THEREFORE, BE IT RESOLVED
BY
THE BOARD OF FRANKLIN COUNTY COMMISSIONERS,

That the following resolution regulating open fires within Franklin County, Kansas is hereby adopted and shall be in full force and effect upon its publication in the official county newspaper.

SECTION ONE – OPEN BURNING PROHIBITED

No person shall cause or permit the on-site open burning of waste material, material from salvage operations, structures, vegetation, and/or other combustible materials within the unincorporated areas of Franklin County without first obtaining a burning permit from the Fire Marshal or his or her designee relating to the site where the proposed burn is located.

No person shall leave any fire unattended until appropriate precautions have been taken to prevent the fire from spreading.

No person shall set a fire without first taking precautions to insure that the fire will be safely contained within the parameters of the area sought to be burned and will not present a danger to the health or property of adjoining landowners. Said person shall follow all guidelines and rules as set forth on the permit and in conformance with state law and regulations.

SECTION TWO – EXEMPTIONS

Permits shall not be required for fires set within enclosed containers used for trash disposal, as long as the materials burned therein are neither hazardous nor toxic and conform to state regulations which regulated air quality control, *i.e.* K. A.R. 28-19-48 *et. seq.* and so long as there is no burn ban in effect.

SECTION THREE – PERMITS REQUIRED

Permits shall be required for all non-exempt types of open burning within the unincorporated areas of Franklin County, Kansas, including but not limited to agricultural burning for the purpose of crop management, fires set for demonstration purposes by government or industrial personnel in fire-fighting procedures, on-site burning associated with land clearing

operations, crop or game management practices and/or construction projects.

Any person desiring a permit for open burning shall make such application to the designee of the Fire Marshal on the form provided by the Fire Marshal. Upon submission of the application and a processing fee, not to exceed five dollars (\$5.00), the Franklin County Fire Marshal or his or her designee shall review the application and upon approval of the application may issue a permit to the applicant. The Fire Marshal or his or her designee may deny the application if they are not satisfied that all necessary information has been provided, they do not believe necessary precautions are being taken to ensure that the fire will be contained or they are concerned that the fire may present a danger to the health or property or any neighbor or adjacent land owner's property.

Permits shall be issued on an annual basis and shall expire on the 31st day of December in the year the permit was in effect. The permit shall contain the name and number of the person authorized to set the fire and the guidelines to be followed in the setting and maintenance of the approved fire. The Fire Marshal and his or her designee shall provide a copy of the permit to the Franklin County Emergency Communications Center of the Franklin County Sheriff's Department. The issuance of a permit does not provide for or allow the burning of any material that is prohibited by local, state or federal law or regulation.

SECTION FOUR – BURN BAN

The Franklin County Board of County Commissioners reserved the right to ban open burning by further resolution and a burn ban would suspend the burn permit until the burn ban is lifted. Further, the Franklin County Fire Marshal is authorized to issue burn bans for specific days when it is determined through the use of the NWS Range Land Fire Danger Index, the weather conditions for the day, the ground moisture condition, the vegetation condition and the wind conditions that burning should be prohibited. This decision shall be made by the Fire Marshal and/or his or her designee by 9:00 a.m. on any day that a burn ban is in effect. The Fire Marshal shall notify the Franklin County Emergency Communications Center of the no burn order and the Sheriff's Office will broadcast such information on the County Fire Frequency and notify the local radio station and the official county newspaper.

SECTION FIVE – PENALTIES

Any person who fails to obtain a permit as required above, who abandons a fire that has not been extinguished, who fails to take proper precautions to control a fire, who burns on a day when burning is banned by the Commission through a resolution or on a day where the Fire Marshal and/or his or her designee has issued a burn ban or who otherwise violates the provisions of this resolution shall be guilty of a class B non-person misdemeanor punishable upon conviction of a fine of up to \$500.00 and/or a jail sentence of up to six months in the county jail. Violations of this resolution shall be prosecuted in the name of the county by the office of the County Counselor.

This Resolution rescinds and replaces all other former resolutions relating to burn bans and burn permits in Franklin County, Kansas.

This Resolution shall be in full force and effect following its adoption and publication in the official county newspaper.

Passed and adopted in regular session this 11th day of April, 2007.

/s/ Roy C. Dunn
Roy C. Dunn
Chairperson

/s/ Karen S. Farrell
Karen S. Farrell
Vice-chairperson

Donald C. Hay
Commissioner

/s/ John E. Taylor
John E. Taylor
Commissioner

/s/ Donald R. Stottlemire
Donald R. Stottlemire
Commissioner

Attested and Recorded, this 11th day of April 2007.

/s/ Shari Perry
Shari Perry

County Clerk