

**THE BOARD OF COUNTY COMMISSIONERS OF
FRANKLIN COUNTY, KANSAS**

RESOLUTION 19 - 42

**A RESOLUTION REGULATING OPEN BURNING WITHIN THE UNINCORPORATED AREAS OF
FRANKLIN COUNTY, KANSAS AND PROHIBITING OPEN BURNING WITHOUT A PERMIT
AND ESTABLISHING PENALTIES 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 departments/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 departments/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 burning within the unincorporated areas of 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

Open burning shall be allowed in the unincorporated areas of Franklin County, Kansas, subject to the following requirements:

Any person(s) intending to obtain permission to conduct open burning shall comply with the rules and regulations contained in this resolution and K.A.R 28-19-645, 28-19-646, 28-19-647, 28-19-648 or any other administrative regulation relating to open burning restrictions as may be adopted by the Kansas Department of Health and Environment. The request for permission to conduct open burning shall be made prior to the open burn. No person shall leave any fire unattended without reasonable precautions being 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. No items shall be burned that create a health hazard. 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 household trash disposal as long as the materials burned therein are neither hazardous nor toxic and conform to state regulations which regulate air quality control. An enclosed container, for purposes set forth herein, is defined as a non-flammable container with a lid or screen that does not allow hot embers or sparks to escape, i.e. 55 gl. metal barrel.

Permits shall not be required for campfires or bonfires or other small fires used for recreational purposes or ceremonies provided that the fire is no more than five (5) feet in diameter and precautions have been taken to prevent the fire from spreading and provided that 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.

Any person desiring a permit for open burning shall make such application to the Fire Marshal on the form provided by the Fire Marshal. Upon submission of the application, 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.

Permits shall contain the location of the area to be burned, fuel type defined as grass, crop stubble, or brush pile, name and phone number of the person authorized to manage the open burn, start and end time, and the guidelines to be followed.

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 reserves 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 combination of the NWS Range Land Fire Danger Index, the weather conditions for the day, the ground moisture conditions, the vegetation condition and the wind conditions that burning should be prohibited. This decision will generally 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. However, the Fire Marshall reserves the right to issue a burn ban and/or remove a burn ban at any time should the current conditions allow doing so. The Fire Marshal and/or his or her designee will notify the Franklin County Emergency Communications Center of the burn ban. The Fire Marshal will suspend issuing permits and post a burn ban on the official Franklin County website.

SECTION FIVE - PENALTIES

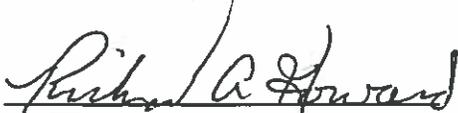
Any person who fails to obtain a permit as required above, who fails to abide by the conditions set forth in the permit, who abandons a fire that has not been extinguished or fails to take reasonable precautions to contain a fire, who burns on a day when burning is banned by the Commission through a 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 provision of this resolution shall be guilty of a Class B nonperson misdemeanor punishable upon conviction by up to six months in the county jail and/or a fine of up to \$1,000.00. Law enforcement officers are responsible for issuing notices to appear for violations of this resolution. Violations of this resolution shall be prosecuted in the name of the county by the office of the County Attorney.

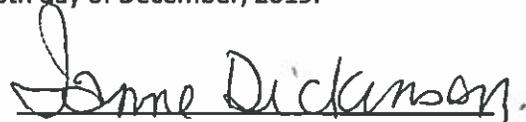
Any person convicted of violating or failing to comply with any of the provisions of this resolution may also be assessed all costs incurred by emergency responders from any Franklin County fire district/department, EMS, law enforcement, emergency management, or emergency response units from mutual aid agencies/departments, in controlling and/or extinguishing the fire.

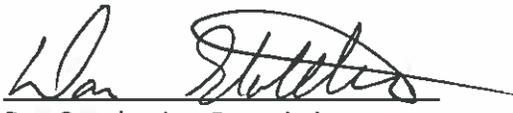
This Resolution rescinds and replaces all other former resolutions relating to burn bans and burn permits in Franklin County, Kansas.

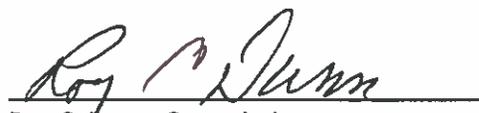
This Resolution shall be in full force and effect following its adoption and publication in the official county newspaper.

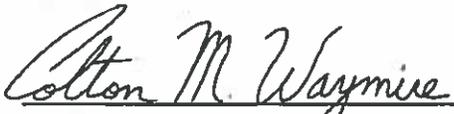
Passed and adopted in the regular session this 18th day of December, 2019.


Richard A. Howard, Chair


Ianne Dickinson, Vice Chair


Don Stottlemire, Commissioner


Roy C. Dunn, Commissioner


Colton M. Waymire, Commissioner

Attested and recorded, this 18th day of December 2019


Janet Paddock, County Clerk

