

BOARD OF COUNTY COMMISSIONERS  
OF  
FRANKLIN COUNTY, KANSAS

RESOLUTION NO. 05-121

A RESOLUTION LIMITING OPEN BURNING WITHIN FRANKLIN COUNTY, KANSAS, PROHIBITING THE SAME WITHOUT A PERMIT, AND ESTABLISHING PENALTIES FOR VIOLATIONS OF THE RESOLUTION.

WHEREAS, Franklin County, Kansas is a county corporation with the powers of home rule as granted by the Kansas Constitution, K.S.A. 19-101 and K.S.A. 19-202a; and

WHEREAS, the State of Kansas, through administrative regulations, has ruled that the regulation of open burning in a rural area is the responsibility of the local governments; and

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

WHEREAS, it is the finding of the Board of County Commissioners that it is necessary for Franklin County, Kansas to adopt rules and regulations concerning open burning within the rural areas of said county as part of said Board's police powers and in order to protect the health and property of the populace of Franklin County, Kansas;

**THEREFORE, BE IT RESOLVED**

**BY**

**THE BOARD OF COUNTY COMMISSIONERS OF FRANKLIN COUNTY:**

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**

A. No person shall cause or permit the on-site open burning of wastes, items for the purpose of salvage operations, structures, vegetation, and/or other combustible materials within the rural area of Franklin County that is outside the boundaries of any incorporated city 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.

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

C. No person shall set a fire without first taking precautions to insure that the fire will be safely contained within the perimeters of the area sought to be burned and will present no 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

A. Permits shall not be required for an open fire set for cooking or for ceremonial purposes, if the site of such fire is on public or private land used for recreational purposes, and there is no ban on burning in effect.

B. 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 those state regulations which regulate air quality control, *i.e.* K.A.R. 28-19-48 *et seq.* and there is no ban on burning in effect.

## SECTION THREE – PERMITS REQUIRED

A. Permits shall be required for all non-exempt types of open burning within the unincorporated area 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, including vacant buildings; and the on-site burning associated with land clearing operations, crop or game management practices or construction projects.

B. Any person desiring a permit for open burning shall make such application to the designee of the Fire Marshal. The application shall provide for information including, but not limited to, the purpose or purposes of the fire or fires; the name, address and telephone number of the party who will be responsible for setting and controlling said fire or fires; and the precautions which will be taken to ensure that said fire or fires will be contained within the boundaries which are designated in the application and the applicant's statement that said fire or fires will not endanger the health or property of adjoining or off-site landowners or residents.

C. Upon submission of the application and a license fee, not to exceed five dollars (\$5.00), the Franklin County Fire Marshal or his or her designee shall cause the application for permit made pursuant to this resolution to be reviewed, and, upon satisfying him or her self that the application has provided all information required by this resolution, including satisfaction that the applicant will take the necessary precautions to ensure that the fire or fires will be contained within the applicable boundaries and will not present a danger to the health or property of any neighbor or off-site landowner or resident, may issue a written permit to the requesting party. Said permit shall be issued on an annual basis and shall expire on the 31st of December of the year the permit has been in effect. Each permit shall contain the name and telephone number of the person authorized to set the fire and rules, as well as the location or locations where a fire or fires will be permitted, and guidelines and requisites to be adhered to in the setting and maintenance of the approved fire or fires. The Fire Marshal or his or her designee shall also provide a copy of permit to the Franklin County Emergency Communications Center (911) of the Franklin County Sheriff's Office.

D. No permit issued under this resolution shall provide for or be interpreted to permit the burning of any item or material which is specifically prohibited by state statute, law or regulation.

E. The Franklin County Board of Commissioners reserves the right, at any time that the weather dictates, to ban open burning, even if a permit has been issued, by further resolution. In addition to the right to ban burning by resolution, the Board of County Commissioners approves and supports by this resolution, the practice of the Franklin County Fire Marshal declaring a No Burn Order for a particular day when it is determined through the use of the NWS Range Land Fire Danger Index, weather conditions for the day, ground moisture condition, vegetation condition and wind conditions that burning should be prohibited. This decision will be made by the Franklin County Fire Marshal, or his or her designee, no later than 9:00 a.m. on any day conditions warrant a No Burn Order. The Fire Marshal will notify the Franklin County Emergency

Communications Center (911) of the Sheriff's Office of the No Burn Order. The Sheriff's Office will broadcast such information on the County Fire Frequency and notify KOFO Radio and the Ottawa Herald of such order.

#### SECTION FOUR – PENALTIES

A. 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 Commissioner resolution or determination of the Fire Marshal or designee, or who otherwise violates the provisions of this resolution or terms of a permit issued under authority of this resolution may be cited for violation of this resolution by issuance of a citation by the Fire Marshal or by an authorized law enforcement officer, or by the filing of a citation by the County Attorney. The form for said citation shall comply with the requirement for county citations as specified by the Kansas statutes.

B. A fine not to exceed two hundred dollars (\$200.00) per violation may be assessed against a violator of this resolution upon conviction.

C. Any person convicted of violating this resolution may also be assessed all costs incurred by any fire department, including any fire department called to assist the township fire department in which the fire was located, in the fighting of fires within Franklin County resulting from actions contrary to the mandates of this resolution and upon which the violator has been convicted.

D. All prior Franklin County Resolutions on this subject including 03-34 are hereby repealed.

Passed and approved this 5th day of December, 2005.

Franklin County Board of Commissioners

/s/ Donald R. Stottlemire

Donald R. Stottlemire, Chairman

/s/ Shari Perry  
Shari Perry, County Clerk