

**RESOLUTION NUMBER 11-04**  
**A RESOLUTION REGULATING OPEN BURNING**  
**WITHIN BUTLER COUNTY, KANSAS**

**WHEREAS**, the Board of County Commissioners deem it necessary to abolish Resolution 06-11 adopted on the 31<sup>st</sup> day of January, 2006 establishing criteria dealing with open burning within Butler County, Kansas and modify the regulations for open burning with Butler County by this new Resolution.

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

**WHEREAS**, recent changes in the overall makeup of certain portions of Butler County, Kansas have created the need for diverse regulations and procedures to provide adequate fire protection for all citizens. Portions of Butler 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 Butler 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.

**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 Butler County, Kansas.

**NOW, THEREFORE**, be it resolved by the Board of County Commissioners for Butler County, Kansas that effective upon publication, Resolution ~~95-47~~ 06-11 shall be

abolished and this resolution regulating open burning shall become enforceable as follows:

**DEFINITION**, 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.

1. Any person or persons who conduct any outdoor open burning operations, shall immediately prior to commencing the burning, contact the appropriate local PSAP (911 Center) or fire service agency 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 same local PSAP or fire service agency when the burning is completed.
2. All outdoor burning shall be conducted in accordance with the Kansas Department of Health and Environment rules and regulations for Open Burning (K.A.R. 28-19-645 thru K.A.R. 28-19-648). For the purpose of these regulations "Agricultural Open Burning" shall be defined as agriculture properties in excess of 40 acres performing open burning of vegetation such as grass, crop residue, and other dry plant growth for the purpose of crop, range, pasture, wildlife or watershed management and shall be exempt from the prohibition on the open burning of any materials imposed by K.A.R. 28-19-645, provided they follow all other conditions.

3. 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.
4. 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 within Butler County may at any time impose a partial or complete ban on open burning within his/her district.
5. 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 appropriate PSAP (911 Center) or 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, unless given approval by the Officer in Charge or designee of the fire service in the appropriate area.
  - 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 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 persons(s) responsible for the controlled burn to extinguish all or part of the burning as necessary to alleviate the safety hazard
6. Open burning shall not be conducted during the month of April with the exception of the following:
- 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.
7. 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 protective screen with a maximum weave or ¼ 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 Butler County Kansas, unless required by a Fire Chief of a fire district within Butler County, 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.

**BE IT FURTHER RESOLVED**, by the Board of County Commissioners for Butler County, Kansas, that 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 Butler County Fire Chief's

Association, the Board of County Commission for Butler County 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 Butler County, Kansas, feels that conditions are such that an unreasonable risk to the safety and welfare of the citizens of Butler County exist, he/she shall contact the Chairperson of the Butler County Fire Chief's Association, and request an emergency meeting of the Association. The Chairperson of the Association shall call an emergency meeting of the Association within five (5) days. All Fire Chiefs within Butler County, Kansas shall be notified of the date and time of any emergency meeting. In addition to the Butler County Fire Chiefs, the Butler County Sheriff shall be informed of the emergency meeting. This meeting may be in person or via voice, video or electronic conference. 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 for Butler County may also request an emergency meeting of the Butler 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 Commission from enacting a ban on outdoor burning, without the recommendation of the Butler County Fire Chief's Association. Implementation of the burn ban by the County Commission shall occur through action of the board by resolution. The burn ban shall stay in force until such time as the County Commission, through action of a resolution, lifts the burn ban. The procedures for enacting the burn ban by the Fire Chiefs Association shall be utilized in recommending a request to the Board of County Commission to lift the burn ban based on improved conditions within the County.

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 Forestry Service.

This Resolution shall take effect upon its adoption and publication in the official county newspaper.

**ADOPTED** this 22<sup>nd</sup> day of March 2011.



Bruce Harris, Chairman  
Butler County Commission



Ron Roberts, County Clerk  
Butler County, Kansas