

RESOLUTION NO: 24-08

A RESOLUTION ESTABLISHING REGULATIONS, REQUIRED PROCEDURES AND PENALTIES FOR OPEN BURNING WITHIN OTTAWA COUNTY, KANSAS; REPEALING RESOLUTION 16-24

WHEREAS, K.S.A. 19-101a, et seq., authorizes the Board of County Commissioners to transact all county business and perform all powers of local legislation and administration it deems appropriate; and

WHEREAS, the Board of County Commissioners of Ottawa County, Kansas, deem it necessary to repeal Resolution 16-24 that was adopted on 24th day of October 2016 and amended on 3rd day of August 2020 pertaining to open burning in Ottawa County, Kansas and modify the regulations for open burning within Ottawa County by this new Resolution; and

WHEREAS, the Board of County Commissioners of Ottawa County, Kansas, realize that agricultural open burning is a common and prudent land management practice within this county; and

WHEREAS, the Board of County Commissioners of Ottawa County, Kansas, have determined that uncontrolled and unauthorized open fires may present a danger to persons and property within the County, and

WHEREAS, the Ottawa County Commissioners deem it is in the best interest of public safety and of the economy of the agricultural community that a policy of notification, permits, and related items and regulations will reduce the danger to persons and property within the County; and

NOW THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Ottawa County, Kansas that Resolution 16-24 shall be repealed and this resolution regulating open burning shall become enforceable as follows:

SECTION ONE: APPLICATION

This Resolution shall be applicable in the unincorporated areas of Ottawa County, Kansas. This Resolution may be adopted by any incorporated city inside the county.

SECTION TWO: DEFINITIONS

1. Agricultural open burning is defined as the open burning of vegetation such as grass, woody species, crop residue and other dry plant growth for the purpose of crop range, pasture, wildlife, or watershed management, and shall be conducted only under the following conditions which meet or exceed K.A.R. 28-19-648.

2. Non-agricultural open burning is defined as the burning of unwanted materials such as paper, trees, brush, leaves, grass clippings, and other debris, where smoke and other emissions are released directly into the atmosphere without passing through a chimney or stack.
3. Recreational fires are defined as an outdoor fire burning materials other than rubbish where the fuel being burned is not contained in an incinerator, but in an outdoor fireplace, barbeque grill, barbeque pit, or chiminea and has total fuel area of 3 feet or less in diameter and 2 feet or less in height for pleasure, religious, ceremonial, cooking or warmth or similar purposes.
 - a. Open flame recreational devices shall not be operated within 25 feet of combustible material including but not limited to walls, floors, household items and combustible vegetation.
 - b. Such devices shall not be used when wind speeds are more than 15mph, or a burn ban has been placed on outdoor burning by the Fire Chief having jurisdiction or a County-wide burn ban has been put in place for all areas of Ottawa County through a Proclamation of a State of Local Disaster.
 - c. Recreational fires shall be constantly attended until the fire is extinguished. Extinguishing equipment such as dirt, sand, water barrel, garden hose or water truck, shall be available for immediate utilization.
 - d. Recreational fires do not require registration, prior authorization, or permission.
4. Open burning of household trash shall be defined as the burning of trash or other debris which is carried out on a residential premises containing five (5) or less dwelling units and is carried out incidental to the normal habitation of said dwelling(s). Open burning of household trash shall be permitted only after the following fire safety precautions have been taken:
 - a. All such burning shall be conducted in an approved metal container or an in-ground pit which is structurally sound to ensure the contents of said container will remain contained.
 - b. An approved protective screen with a maximum weave of ¼ inch shall be installed on the top of the container.

- c. An area of bare soil or other approved non-combustible material shall surround the burn contain for ten (10) feet in all directions.
 - d. The person conducting the burning shall insure that the burning is supervised by an adult and the fire is extinguished.
 - e. A charged garden hose or a full bucket of water shall be readily available to control any fires which may occur.
 - f. Trash burning shall not be conducted when the wind speed is in excess of 15mph.
 - g. Trash burning shall not be conducted if the Grassland Fire Danger Index issued by the National Weather Service Office out of Topeka is in the Extreme category.
 - h. Trash burning shall not occur if the National Weather Service Office out of Topeka has issued a “Red Flag Warning” or “Wind Advisory” for Ottawa County.
 - i. Trash burning shall not be conducted when a ban has been placed on all outdoor burning by the Fire Chief having jurisdiction or if all outdoor burning has been ban under a Proclamation of a State of Local Disaster.
 - j. Due to the volume of household trash burning which occurs on a routine basis within Ottawa County, Kansas, unless required by a Fire Chief having jurisdiction and/or Ottawa County Emergency Management Department no notification is required for the burning of household trash in an approved container.
5. Responsible Person shall mean a responsible person, competent individual of at least 18 years of age who is not under the influence of alcohol or other intoxicating substances.

SECTION THREE: REGISTRATION REQUIRED

1. The person conducting the burn shall pre-register with the Ottawa County Emergency Management Department and obtain a registration number identifying that individual and providing their contact information.
2. The person with the registration number shall notify the Ottawa County Emergency Management Department of any changes in their contact information prior to obtaining a new Burn Notice Number.
3. The application for registration of individuals wishing to perform open burnings under K.A.R. 28-19-647(a)(3) shall be in the form provided by the Ottawa County Emergency Management Department. Such registration shall consist of submitting a completed registration form, no fee will be charged.

4. The registered individual shall renew their registration every five years from the date of their initial registration.
5. Burn registration numbers are non-transferable, however the holder of the burn registration number may designate in writing a person who is 18 years of age or older to oversee and conduct the burn on their behalf.

SECTION FOUR: RULES FOR ALL OPEN BURNING OPERATIONS

No person in an individual capacity or on behalf of a corporation, LLC, partnership, or other legal entity, shall conduct, permit, or allow Agricultural Open Burning or Open Burning when prohibited by this Resolution or when conducted in violation of the requirements hereinafter prescribed.

1. Any individual who intends to conduct any Agricultural or Non-Agricultural Open Burning shall first obtain a Burn Permit Number from the Ottawa County Dispatch Center. A new Burn Permit Number is required for each act of open burning.
2. Any individual requesting a Burn Permit Number must contact Ottawa County Dispatch at (785) 392-2157 **no more than 1 hour prior** to the start of any burning operation and must provide the following information:
 - a. The Registration Number of the person responsible for the burn;
 - b. Contact information for the person supervising the burn if the burn supervisor is different than the holder of the registration number;
 - c. Exact location by address or closest intersection to the intended burning operation;
 - d. Type of material being burned;
 - e. Wind speed and direction at the time of the call;
 - f. Estimated duration of the burning operation;
 - g. Emergency telephone contact number of the person supervising the burn.
 - h. Dispatch shall inquire from the person seeking a burn permit number if the burn will interfere with traffic on any roadway or at any airport.
 - i. Any other information requested by Dispatch
3. The holder of the burn registration number or their designee shall remain in continuous attendance at the burning operation and maintain the ability to control the fire and report its status, if necessary. Failure to assure attendance and supervision of the burn in a violation of this Resolution by both the registrant and the designee.

4. Burning of stand-alone brush piles may not be commenced when there is a RED FLAG warning forecasted anytime during the 72 hours after ignition. Brush piles will have at least a one hundred (100) foot fire break from any combustible material or structures or property lines.
5. Regardless of the issuance of a Burn Permit Number, absolutely no burning shall take place within 150 feet of any structure, oil tank or vehicle(s) not owned or operated by the Registrant. It is the responsibility of the person conducting the burn to make sure this provision is not violated.
6. Burning shall not be initiated during the nighttime, which for the purpose of this Resolution is defined as the period from one (1) hour before sunset until one (1) hour after sunrise unless special permission has been obtained from the Fire Chief having jurisdiction. If a Fire Chief has granted special permission, the Fire Chief shall notify dispatch that they have granted special permission for the burn to occur outside of these timing restrictions.
7. Agricultural or Non-Agricultural Open Burning shall not occur if the National Weather Service has issued a "Red Flag Warning" or "Wind Advisory" for Ottawa County.
8. No Agricultural or Non-Agricultural Open Burning shall occur if Grassland Fire Danger Index issued by the National Weather Service Office out of Topeka, Kansas in the Extreme category.
9. Non-Agricultural Open Burning shall be prohibited if the windspeeds are 15mph or above. Agricultural Open Burning is discouraged if the windspeeds are 15mph or above or are forecasted to be by the National Weather Service. There shall be no Agricultural Open Burning if windspeeds are 20mph or over.
10. If a burn ban is in effect no Agricultural or Non-Agricultural Open Burning shall occur.
11. A burn ban can be put in place by the Fire Chief having jurisdiction over a fire district. Any such burn ban shall pertain to all Agricultural or Non-Agricultural Open Burning in all areas of the county.
12. A person shall not conduct a burn that creates traffic or other safety hazards.
13. An adequate water supply or other mechanical equipment, and personnel must be on hand and readily available to control any fires which may occur.

14. A person shall not burn heavy smoke-producing materials including heavy oils, tires, tarpaper, metal debris, petroleum products, construction debris, structures, or any material designated by the Secretary of the Department of Health and Environment of the State of Kansas.

BE IT FUTHER RESOLVED that at any time there is more than one Fire District responding to any fire call or calls, a suspension of further burns may be imposed by the authority of Ottawa County Emergency Management Department, the Fire Chief having jurisdiction, and/or Ottawa County Dispatch until the fire is under control and supporting agencies have been dismissed from the scene.

BE IT FURTHER RESOLVED that the Fire Chief having jurisdiction and/or Ottawa County Emergency Management Department shall have the authority to stop any open burning as he/she deems necessary.

BE IT FURTHER RESOLVED by the Board of County Commissioners of Ottawa 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 recommendation of the Ottawa County Emergency Management Department, the Board of County Commissioners may impose a ban on all outdoor burning, including the burning of household trash, for all incorporated and unincorporated areas of Ottawa County through a Proclamation of a State of Local Disaster. Every effort will be made to ensure notification of such ban on burning is communicated to the public.

BE IT FURHTER RESOLVED, any person who engages in or permits open burning upon his/her property, whether such property is owned by, leased, or rented, and has not complied with the provision(s) of this Resolution shall be in violation of this Resolution. Violation of this Resolution shall constitute a Class C Nonperson Misdemeanor subject to a fine not to exceed \$500.00 and incarceration in the Ottawa County Jail for a period not to exceed 30 days. Prosecutions for violations of this Resolution shall be in the District Court of Ottawa County, Kansas, as authorized by K.S.A. 19-101(d) and amendments thereto. In addition to the aforementioned penalties the person or persons convicted of violating the provisions of this Resolution shall be liable for restitution to the fire departments and other emergency personnel responding to the fire and for damages caused by the fire.

BE IT FURTHER RESOLVED that a Fire Chief having jurisdiction may temporarily revoke a person's Burn Registration Number for 30 days. During the 30 day period the Fire Chief shall complete a written report and provide a copy of the report to the Ottawa County Emergency Management Department, Ottawa County Sheriff's Office and to the Office of the County Attorney.

BE IT FURHTER RESOLVED, any person who is convicted of violating the terms of this Resolution shall have their Burn Registration Number revoked for a period of one year from the date of convictions. To reinstate the Burn Registration Number, said convicted person must produce a certificate of successful completion of a Prescribed Burn School through KSU Extension or Wild Land Fire Course to the Ottawa County Emergency Management Department or the Fire Chief having jurisdiction. The Fire Chief having jurisdiction shall have the ultimate authority to grant Burn Registration Number reinstatement after a violation that leads to the registration being revoked.

BE IT FURHTER RESOLVED that Resolution 16-24 is hereby repealed and this Resolution will become effective after its passage and publication in the official newspaper of the County.

ADOPTED this 6th day of May 2024.

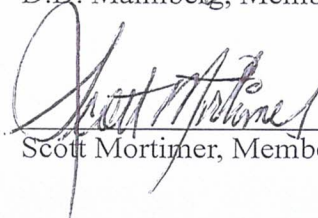
BOARD OF COUNTY COMMISSIONERS
OF OTTAWA COUNTY, KANSAS



Dawn Wolf, Chairperson

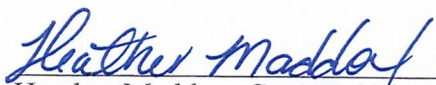


D.D. Malmberg, Member



Scott Mortimer, Member

ATTEST:



Heather Maddox, County Clerk