

RESOLUTION NO. 2009- 04

A RESOLUTION BY THE BOARD OF COUNTY COMMISSIONERS OF BARBER COUNTY, KANSAS ENACTING COMPREHENSIVE OPEN BURNING REGULATIONS; SETTING FORTH PENALTIES FOR THE VIOLATION OF THE REGULATIONS REGARDING OPEN BURNING; AND REPEALING PRIOR RESOLUTIONS ON OPEN BURNING

WHEREAS, K.S.A. 19-101a, *et seq.*, and amendments thereto, authorizes the Board of County Commissioners of Barber County, Kansas (hereinafter the "Board") to transact all County business and perform all powers of local legislation and administration it deems appropriate; and

WHEREAS, It has been determined by the Board that there is a need to set out a comprehensive regulatory practice regarding trash burning and open burning in the unincorporated areas of Barber County, Kansas; and

WHEREAS, the practice of open burning can be vital to the conduct of certain agricultural practices in the Barber County; and

WHEREAS, it is in the best interest of the citizens of Barber County that open burning is conducted in a safe manner and that proper fire protection be afforded during the conduct of such open burning.

NOW THEREFORE, be it resolved by the Board:

1. Burn Permits. The open burning of any fields, lots, garden plots, debris, fence rows or household trash shall be allowed without permit under the conditions set forth herein, except this Resolution shall not exempt any person from obtaining a permit when required by Kansas Administrative Regulations 28-19-645, 28-19-646, 28-19-647, or 28-19-648.

2. Trash Burns. "Household trash" is defined as that solid waste normally associated with the conduct of a household and does not include tires, metal debris, petroleum products, chemical product construction materials, or any materials prohibited for burning by the Secretary of the Department of Health and Environment of the State of Kansas. Household trash shall only be burned in a non-combustible container with a metal screen top containing holes no greater than 1/2 inch, and container must be 100' or more from any structure.

3. Conditions for Open Burning. Each open burning operation shall be subject to the following conditions:

a. Burn Restrictions. Open burning for any reason shall not occur on those days when the National Weather Service Rangeland Fire Index is in the High, Very High or Extreme categories, or when the Board or the Governor of the State of Kansas has imposed a ban on burning.

b. Notification of intent to burn. Each person planning an open burn shall notify the Barber County Sheriff's Office one (1) hour prior to initiating the burn and provide the address location of the proposed burn, and the name, address and telephone number of the person responsible for the proposed burn. Notice shall also be given to all adjacent landowners or their tenants at least twenty-four (24) hours prior to the burn.

c. Hours for safe burning. No person shall initiate open burning any sooner than one hour after sunrise and later than two hours before sunset. No material may be added to a fire after two hours before sunset. Fires must be extinguished no later than one half hour after sunset.

d. Wind speed. The wind speed during a burn shall not be less than five (5) mph or more than fifteen (15) mph at the time of the burning operation. Wind speed must be obtained before beginning burning operations by contacting the National Weather Service and the Barber County Sheriff's Office.

e. Supervision of fire. The responsible party shall supervise a burn from the time of ignition until the fire is completely extinguished.

f. Fire suppression equipment. Persons initiating an open burn must have adequate fire suppression equipment at the burn site to handle the type of burn material and size of burn. Any person or persons planning a controlled burn subject to this Resolution, must have a minimum of four (4) functioning spray units on location at the beginning of the burn, with each unit manned by at least two (2) persons and a minimum of 250 gallons of water per unit, which must each have a pump capable of pumping a minimum of five (5) gallons per minute. At least one of these units on the scene must have the capability of pumping thirty (30) gallons per minute in order to handle a break-out. The minimum number of trucks on the scene is dictated by the fact that any fire has two (2) ends or fire lines, and the minimum number of trucks per fire line is two (2). A minimum of one thousand (1,000) gallons of mobile reserve water per fire line shall be on the scene in order that each of the two (2) trucks per fire line can be refilled twice.

g. Crop residue. When burning crop residue, either an operable tractor and disc or manned spray rig shall be on site. The person conducting the burn shall stay on site until the burn is concluded. There shall be a minimum fire guard of fifty feet (50') of tilled ground.

h. Traffic Hazard. No person shall conduct a burn that creates a traffic hazard or other safety hazard, and fires shall not take place within 100 feet

of a roadway or residential structure except as provided in Section 2. When smoke from the open burn travels over a roadway, the appropriate law enforcement agency must be notified of the potential hazard.

4. Responsible Party. For the purpose of any penalty to be assessed pursuant to any violation of this Resolution it shall be considered prima facie evidence that the person owning, occupying or controlling any premises upon which an open burn is being conducted voluntarily allowed said open burn to take place and is responsible for the burn.

5. Penalty. The violation of any of the provisions of this Resolution is hereby declared unlawful. Any person or persons responsible for any burn in violation of this Resolution shall be subject to the following penalties:

a. Each violation of the terms of this Resolution shall be deemed an unclassified misdemeanor and shall be subject to criminal prosecution resulting in imprisonment in the county jail and/or a fine set forth by Kansas statutes, determined as if the violation of this Resolution were the violation of Kansas statutes. In addition to any other method of initiating a criminal proceeding under applicable law, any law enforcement officer may initiate a criminal proceeding under this Resolution by making an offense report and serving a citation and notice to appear in court upon the alleged violator. The offense report shall be forwarded to the County Attorney for prosecution.

b. In addition to the penalties set out in Section 5a, any person or persons who violate the provisions of this Resolution may be ordered to pay restitution to the fire units involved as follows: Two Hundred Dollars (\$200.00) per County Fire unit vehicle called to bring the fire under control for the first two (2) hours that each vehicle is in service, and One Hundred Fifty Dollars (\$150.00) per County fire unit vehicle for each additional hour that any County Fire unit vehicle remains in service, and, any and all expenses associated with bringing the fire under control as determined by the Fire Chief. Any funds collected under this provision shall be credited to the appropriate fire department.

6. Fire Department Call Out. Any time the Fire Department is called out to an unreported fire, controlled or not, the Fire Department will put the fire out.

7. Monitoring. When a pastureland, grassland, stubbleland, or woodland fire is brought under control and the Fire Department leaves the scene, the person or persons responsible for lighting the controlled burn is responsible for monitoring the site for rekindles or break-outs.

8. County Wide Burn Ban From time to time, depending on the low moisture conditions, the Barber County Fire Chief or Barber County Commission may impose a county wide burn ban in the unincorporated parts of the county. If the Fire

Department is called to extinguish a fire intentionally set during such burn ban, the landowner shall pay a fee of One Thousand Dollars (\$1,000.00) in addition to any and all charges referenced above.

9. Prior Resolutions. All prior resolutions relating to the conduct burning regulated by this Resolution are hereby repealed.

10. Effective Date. This Resolution and shall take effect and be in force from and after its publication once in the Official County newspaper.

IN WITNESS WHEREOF, the foregoing Resolution was adopted this 16 day of March, 2009

BOARD OF COUNTY COMMISSIONERS  
OF BARBER COUNTY, KANSAS:

Mike G. Thomas

Chair

Paul Harbaugh  
Member

Steve Harten  
Member

ATTEST:

Debbie Westing  
Barber County Clerk