

RESOLUTION NO. 2006- 23

A RESOLUTION BY THE BOARD OF COUNTY COMMISSIONERS OF LEAVENWORTH COUNTY, KANSAS, ENACTING A COMPREHENSIVE BAN ON OPEN BURNING WITHIN LEAVENWORTH COUNTY, KANSAS; SETTING FORTH THE PERMITTING REQUIREMENT FOR OPEN BURNING FOR AGRICULTURAL PURPOSES; SETTING FORTH RESTRICTIONS ON THE BURNING OF HOUSEHOLD TRASH IN THE UNINCORPORATED AREAS OF LEAVENWORTH COUNTY, KANSAS; SETTING FORTH PENALTIES FOR THE VIOLATION OF THE REGULATIONS REGARDING OPEN BURNING; REPEALING RESOLUTION 1997-35.

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

WHEREAS, the practice of open burning is vital to the conduct of certain agricultural practices in Leavenworth County, Kansas, and

WHEREAS, it is in the best interest of the citizens of Leavenworth County, Kansas, that proper fire protection be afforded during the conduct of such open burning, and

WHEREAS, it has been determined that a permitting process wherein the person conducting an open burn would be required to notify the Leavenworth County Sheriff's Office of the conduct, time and location of any open burn.

BE IT THEREFORE RESOLVED:

1. That the open burning of any fields, lots, garden plots or household trash be prohibited at all times in the unincorporated areas of Leavenworth County, Kansas, except as set forth herein.

2. That the burning of household trash shall be allowed in the unincorporated areas of Leavenworth County, Kansas, without permit or prior notice, said burning being limited to the use of a metal screened container with a volume not exceeding 55 gallons, said container to be mounted on a non-combustible surface in an area free of vegetation within a three foot radius of the container. Household trash is defined as being that solid waste normally associated with the conduct of a household and does not include old tires, metal debris, petroleum products, construction debris, or any material designated by the Secretary of the Department of Health and Environment of the State of Kansas.

3.. All open burns authorized herein, including the disposal of household trash as defined in paragraph #2 herein shall take place no sooner than one hour after sunrise nor later than two hours prior to sunset.

4. Permits for open burning shall be issued in the following manner: any person or entity of whatever kind designed to obtain permission to conduct open burning for agricultural purposes in the unincorporated areas of Leavenworth County, Kansas, shall contact the Leavenworth County Sheriff=s Office Dispatch and inform that office of their request for permission to conduct open burning. The Dispatch Office shall, in the absence of any countywide or township wide ban on burning issued by the Board of County Commissioners of Leavenworth County, Kansas, or the Director of the Office of Emergency Preparedness shall grant permission for the conduct of an open burn to take place, noting the location of the proposed burn, the time of the proposed burn and the nature of the proposed burn. If either a countywide or township wide burning ban has been issued by any of the above listed individuals the office of the Dispatch of the Leavenworth County Sheriff=s Office shall deny permission for the conduct of an open burn. All burning shall comply with the rules and regulations contained in K.A.R. 28-19-645, 28-19-646, 28-19-647 and 28-19-648, or any other such administrative regulations 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 conduct of the burn and said permission shall be valid for one day only. Permission for an open burn may be revoked at any time either by the Leavenworth County Sheriffs Department or the office of Emergency Preparedness.

5. 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 allow said open burn to take place; this presumption is rebuttable.

6. In the event that any person shall allow an open burn to take place in the unincorporated areas of Leavenworth County, Kansas, in violation of this resolution the County Counselor, County Attorney or other agent of the County as designated by the Board of County Commissioners shall be directed to proceed in competent jurisdiction against the person or persons responsible for any open burn in violation of this resolution. Violation of the terms of this resolution shall contain the following penalties.

a) That the violation of the terms of this resolution shall be construed as a Class U, undefined misdemeanor and shall be subject to the penalties for such misdemeanor as set forth by State Statute.

b) That the County is authorized to seek a civil penalty against any person violating the terms of this resolution in the sum of not less than \$100.00 nor more than \$1,000.00 plus any costs incurred by the County, or any party acting on behalf of, and under authorization by the County, directly caused by any persons violation of the terms of this resolution.

c) Any violation of the terms of this resolution by any person shall lead to the prohibition of the issuance of any permit to said person or persons for a term of one year from the date of said violation.

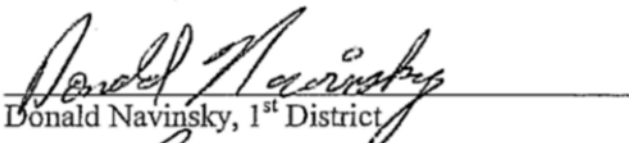
7. Resolution 1997-35 is hereby repealed.

IN WITNESS WHEREOF, The Board of County Commissioners of Leavenworth County, Kansas, have adopted the above and foregoing resolution this 1st day of ~~May~~, 2006.
June

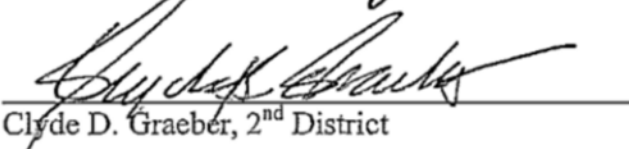
Board of County Commissioners
Of Leavenworth County, Kansas




Gerald D. Oroke, Chairman



Donald Navinsky, 1st District



Clyde D. Graeber, 2nd District

ATTEST: 
Linda A. Scheer, Clerk