

RESOLUTION NO. 2012-1348

**A RESOLUTION BY THE BOARD OF COUNTY COMMISSIONERS OF ATCHISON COUNTY, KANSAS; RESCINDING ATCHISON COUNTY RESOLUTION NO. 1233; RESCINDING ATCHISON COUNTY RESOLUTION NO. 1237; ENACTING A COMPREHENSIVE PLAN ON OPEN BURNING WITHIN ATCHISON 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 ATCHISON COUNTY, KANSAS; SETTING FORTH PENALTIES FOR THE VIOLATION OF THE REGULATIONS REGARDING OPEN BURNING; REPEALING PRIOR RESOLUTIONS ON OPEN BURNING.**

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

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

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

WHEREAS, it has been determined by the Burn Resolution Committee that a permitting process wherein the person conducting an open burn would be required to notify the Atchison County Sheriff's office of the conduct, time and location of any open burn; and

WHEREAS, that open burning should be completely prohibited whenever weather conditions are unreasonably unfavorable.

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 Atchison County, Kansas, except as set forth herein.

2. That the burning of household trash shall be allowed in the unincorporated areas of Atchison County, Kansas, without permit or prior notice, said burning being limited to the use of a metal barrel or metal-screened container, 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. Permits for open burning or applications to renew a previous permit shall be issued in the following manner: any person or entity of whatever kind desiring to obtain permission to conduct open burning in the unincorporated areas of Atchison County, Kansas, shall contact the Atchison County Sheriff's office or the Atchison County Emergency Preparedness Director in person weekdays between 8:00 a.m. and 5:00 p.m. and obtain a Permit number which may be applicant's 7 digit telephone number unless otherwise requested by applicant and said Permittee shall sign for the number and a copy of this resolution. Said Permit shall remain in effect unless revoked by act of the Commission. A permittee cannot assign the permit to another.

4. 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 HAS voluntarily allowed said open burn to take place; this presumption is rebuttable.

5. In the event that any person shall allow an open burn to take place in the unincorporated areas of Atchison County, Kansas a permit will be required as indicated in paragraph 3 and the following procedure shall be followed for the type of burn indicated below:

- a. For fields, including CRP, rangeland, brush piles, structures, storm damage debris, Permittee must have permit number available at the burn location and burn must be attended by the permittee until extinguished.
- b. For drift wood, large brush piles containing trees and large hay bales, Permittee may burn when an adequate safety area is prepared around the burn location by disking, burning or otherwise clearing combustible materials to insure the fire does not spread. Although the Permittee is not required to remain at the burn site for these fires Permittee must check such burn periodically until extinguished.

For burns described in paragraph 5a and 5b, Permittee shall notify the Atchison County Dispatcher at 913-367-4323 that he or she intends to do an open burn, provide the permit number and the location of said intended burn including the nearest crossroads. That upon receiving this notification, said dispatcher shall notify the Fire Chief or his designee for the Rural Fire District where the intended burn will take place. Permittee shall notify the Atchison County Dispatcher upon said fire being extinguished.

- c. For twine and net wrap, feed and seed sacks, farmstead waste, leaves and garden plots burns may be conducted by a Permittee without notifying the County Dispatch office. However, Permittee must have burn permit available at the location of the burn site and such fires must be attended



by Permittee until extinguished.

6. This resolution shall not be construed to authorize the burning of any material that would otherwise not be allowed by State or Federal law.

7. No open burning will be allowed whenever a burn ban is in effect. The Emergency Preparedness Director or the County Commission are hereby authorized to issue a burn ban prohibiting all open burning within the County whenever conditions become so severe due to drought, wind, natural or man-made disasters or for security reasons as to constitute a serious danger to persons and/or property within the County. Such authorization shall become effective upon notice to the general public by any or all of the following methods: written notification to the County Dispatch office, written publication in the official County newspaper, written notice on the County's official website and/or oral announcements through local media outlets. The aforesaid prohibition on open burning shall be removed once the Emergency Preparedness Director or the County Commission determines that the conditions causing the ban to be instituted have been sufficiently alleviated so as to no longer constitute a serious danger to the general public.

8. That the County is authorized to seek a civil penalty against any persons violating the terms of this resolution in the sum of not less than \$100.00 for a first violation and up to \$300.00 for any subsequent violations. In addition, and person violating the terms of this resolution shall be responsible for any costs incurred by the County or a Rural Fire District on account of such violation.

9. The Atchison County Landfill Burn Site & Atchison County Road and Bridge Departments are not required to obtain a permit pursuant to this resolution. However, the Atchison County Road and Bridge Department must notify the dispatcher of the location of their burns.

10. All prior resolutions relating to the conduct of open burning are hereby repealed.

11. Atchison County or any entity of Atchison County shall not be responsible for damage done to permit holders property or neighboring property as a result of a Burn Permit being issued.

12. This Resolution shall be in effect from its adoption and publication once in the official county newspaper.

ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS of Atchison  
County, Kansas, this 7<sup>th</sup> day of March, 2012.

By: Thomas D. Wagner  
Thomas D. Wagner, Commissioner

By: Jeffery D. Schuele  
Jeffery D. Schuele, Commissioner

By: Mike Bodenhausen  
Mike Bodenhausen, Commissioner



Pauline M Lee  
Pauline M. Lee, Atchison County Clerk