

**RESOLUTION NO. 760B**

**AMENDED RESOLUTION RESTRICTING OPEN BURNING**

*WHEREAS*, Coffey County, Kansas (hereinafter "the County") is a county corporation with the power of home rule as granted by the Kansas Constitution, K.S.A. 19-101, and K.S.A. 19-101a; and

*WHEREAS*, the State of Kansas, through administrative regulations, such as K.A.R. 28-19-647, has ruled that the regulation of open burning in a rural area is the responsibility of local governments; and

*WHEREAS*, Coffey County Fire District #1, which serves Coffey County, has experienced increased demands for fire-fighting services which has placed a stress on the fire district's personnel and budget; and

*WHEREAS*, it is the finding of the Board of County Commissioners, Coffey County, Kansas (hereinafter "the Board") that it is necessary for the County to adopt rules and regulations concerning open burning within the area of said County as part of said Board's powers and in order to protect the health and property of the populace of the County;

**NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF COFFEY COUNTY, KANSAS AS FOLLOWS:**

**I. Open burning prohibited.**

- A. Open burning is any uncontained burning of debris, wastes, structures, vegetation, or any other combustible material that is not in an acceptable burn container.
- B. A person shall not cause or permit the open burning on any premises except as authorized by this Resolution; and

**II. Responsibility for open burning.**

It shall be prima facie evidence that the person who owns or controls property on which open burning occurs has caused or permitted the open burning.

**III. Exceptions to prohibition on open burning**

- A. Open burning for cooking or ceremonial purposes on public or private lands regularly used for recreational purposes
- B. Burning in any non-combustible container, with a tight fitting non-combustible cover, that has vent holes no larger than one square inch.
- C. Burning carried out on a residential premises incidental to the normal habitation of such premises unless prohibited by any local authority with jurisdiction over the premises.
- D. Open burning carried out pursuant to a written permit.

**IV. Written permits**

- A. Are valid for the holder of the permit, so long as the information in the permit remains current.
- B. Are issued by any of the fire district's fire stations, city halls, or county libraries.

- C. Will have a unique number supplied by the Coffey County Fire District #1 Fire Chief ("Fire Chief").
- D. Are non-transferrable.
- E. May be denied or revoked for good cause by the Fire Chief. Individuals whose request for permit has been denied or whose permit has been revoked may request an informal appeal hearing to the Coffey County Fire District Board #1 (CCFD).

V. Procedure for open burning

- A. Prior to starting a fire, the permit holder shall ensure enough labor and equipment is available to control the open burning.
- B. Contact the Coffey County Sheriff Office Dispatch Center ("Dispatch") (620 364 2123 or 1800 362 0638) to see if a burn ban is in place and provide the following information:
  - 1. His/her name
  - 2. Written permit number
  - 3. Address where fire will be started
  - 4. Type of burning
- C. It is recommended that the permit holder contact the neighbors of the property where the open burn will occur and inform the neighbors of the open burning and again once the fire is out.
- D. When an open burn is extinguished, the permit holder shall contact Dispatch and advise that the fire is out.

VI. Responsibilities

- A. The permit holder who sets the fire is totally responsible and assumes all responsibility for his/her acts. The Board, the Board of Trustees of Coffey County Fire District #1, their officers, agents, and employees assume no responsibility or liability for fire damage resulting from the use of written open burning permits.
- B. The person setting the fire shall be responsible for all aspects of the fire and must present the written permit, or a copy, on demand of a law enforcement officer or fire official. Also acceptable will be the name of the permit holder, and the permit number, which can be immediately verified.
- C. If Coffey County Fire District #1 is dispatched to an open burning and the party responsible for the open burning has not complied with this Resolution, the fire district's personnel and equipment will be in service only to extinguish the fire.

VII. Other restrictions

- A. No open burning is permitted of heavy smoke producing materials (e.g. tires, oil).
- B. No open burning shall create a traffic or other safety hazard.

VIII. Burn ban

- A. Depending on fire hazard conditions, the Board may impose a county wide burn ban. In such an event, no permission to open burn will be granted to permit holders.
- B. The Fire Chief has complete discretion over permission to open burn. Daily, the Fire Chief, or his/her designee, will communicate to Dispatch whether open burning is permissible in Coffey County, taking into account the fire hazards, weather, and fire personnel availability. If the Fire Chief denies open burning on a particular day, no open burning shall be permitted to permit holders.

IX. Unlawful acts.

It shall be unlawful for any person to do any of the following:

1. Violate any provision of this resolution.
2. Violate any provision of an approval issued under this resolution.
3. Knowingly make any false statement, representation or certification in any request, record, report, approval or other document filed, maintained or used for purposes of compliance with this Resolution.

X. Violations.

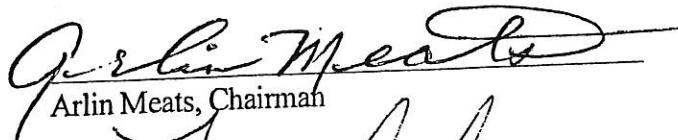
- A. Violations of this Resolution shall be investigated by the Fire Chief or designee or law enforcement officers.
- B. Violations of this Resolution may be filed through law enforcement by uniform complaint and notice to appear or by submission of standard offense reports to the county attorney's office for review.
- C. A violation of this Resolution is a class C misdemeanor. Violations may be punishable with up to 30 days in the county jail and a fine of up to \$500.
- D. Any person convicted of violating any provision of this Resolution may also be assessed the costs incurred by Coffey County Fire District #1 in responding to the incident.
- E. Any person who aids, assists or abets another in violating the provisions of this Resolution will be deemed to have committed a violation of this Resolution.

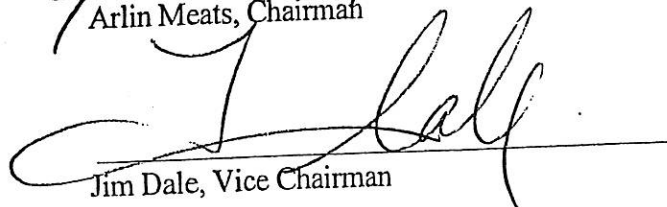
XI. Effect

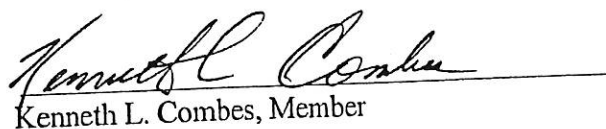
- A. This Resolution shall be in full force and effect upon publication one (1) time in the official County newspaper.
- B. Upon this Resolution taking effect, Resolution 760A, which was adopted October 9, 2006 shall be repealed.

ADOPTED this 29<sup>th</sup> day of August, 2016.

BOARD OF COUNTY COMMISSIONERS,  
COFFEY COUNTY, KANSAS

  
Arlin Meats, Chairman

  
Jim Dale, Vice Chairman

  
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Fred Rowley, Member

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Robert L. Saueressig, Member

APPROVED AS TO FORM:

Christopher B. Phelan  
Christopher B. Phelan  
County Attorney



Angie Kirchner  
Angie Kirchner  
County Clerk