

RESOLUTION 2019-010

RESOLUTION REQUIRING **PRIOR PERMISSION** FOR ALL OPEN BURNING

WHEREAS, the Board of County Commissioners of Jefferson County have determined that uncontrolled and unauthorized open burning may result in the unintended destruction of property, and may cause an unnecessary strain on the resources of volunteer fire departments in Jefferson County; and

WHEREAS, uncontrolled open burning may present a danger to property and persons within the County and that such burning may degrade the quality of our natural environment; and

WHEREAS, the County Commissioners have determined that a formal policy that details the allowances, notification and permitting requirement that will reduce such danger and will protect the environment is necessary.

NOW THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Jefferson County, pursuant to K.S.A. 19-101, et seq., that the following regulations be adopted in an effort to control burning within Jefferson County as follows:

**SECTION 1. JURISDICTION.** This Resolution shall apply to the whole of Jefferson County, Kansas except for the areas of the incorporated city limits therein that do have their own regulations.

**SECTION 2. OPEN BURNING PROHIBITED.** Open burning of any debris, structures, vegetation or any other combustible material is hereby prohibited, except as authorized within this Resolution, subject to the following exceptions:

- (a) **EXCEPTIONS.** As authorized by the Kansas Administrative Regulations, the following open burning shall be allowed, provided that all regulations as established within this Resolution are met:
  - (1) Open burning carried out on a residential premises incidental to the normal habitation of such premises, unless prohibited by any local authority with jurisdictions, i.e. very small piles of leaves.
  - (2) When carried out for cooking or ceremonial purposes on public or private land which is regularly used for recreation.
  - (3) Fires related to the training of firefighters.

**SECTION 3. CONSIDERATIONS FOR ISSUANCE OF PERMISSION TO BURN.** The Fire Chief or designee having jurisdiction within Jefferson County shall have complete discretion over permission to burn. The Fire Chief or designee may consider the following factors in making the determination:

- (a) The location and potential hazard to nearby structures and property.
- (b) The expected weather conditions, including wind speed and dryness.
- (c) The potential effect of smoke on visibility and air quality.

- (d) The feasibility of alternatives to open burning.
- (e) Fire personnel and apparatus availability.

SECTION 4. PROCEDURES FOR OPEN BURNING. Open Burning operation conducted under the herein provided burn permission shall take place only after prior notification is made to the Jefferson County Controlled Burn Hotline: 785-403-0108. This number is only active on days when Open Burning is permitted in Jefferson County.

- (a) Such notification shall be made after **sunrise** on the same day of the anticipated burn and notification will include the location of the burn, estimated amount and nature of material to be burned; the proposed frequency, duration, and schedule of the burning including the time that the burn will begin; the size of area to which the burning will be confined; method of igniting the material; location of public roadways within 1000 feet of the proposed burn; number of occupied dwellings within 1000 feet of the proposed burn
- (b) Notification to the Controlled Burn Hotline will include the following caller information:
  - 1. **The name of the burn attendant and landowner with requisite permission**
  - 2. The address and proposed location of the burn
  - 3. What is being burned
  - 4. **Phone number of the burn attendant and landowner**
- (c) Open burning operations conducted hereunder shall be supervised at all times by the burn permit holder until such fire is extinguished.
- (d) **The fire must be started at least 2 hours before sunset, unless otherwise authorized by the Fire Chief or his designee.**
- (e) If a burning operation is to take place within 1000 feet of a roadway controlled by the State of Kansas the person conducting the burn shall notify the Kansas Highway Patrol, the Jefferson County Sheriff, or other appropriate local traffic authority before the burn begins.
- (f) It is the responsibility of the permit holder to obtain the required permission of the landowner or tenant of the property upon which the burning operations are conducted as 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.

#### SECTION 5. VIOLATIONS

- (a) Nothing in this act shall be construed as creating a cause of action on behalf of any person against the County, a municipality or any other agencies, instrumentalities or employees responsible for the application or enforcement of the provisions of this Resolution.
- (b) Alleged violations of this Resolution will be investigated by the Fire Chief or designee.
- (c) Violations of this Resolution may be filed by uniform complaint and notice to appear.

- (d) Violations of this Resolution by any person knowingly allowing any open burning without first obtaining a permit as required by this Resolution shall be punishable as a Class "C" Misdemeanor with penalties for each separate offense by a term of confinement in the Jefferson County Detention Facility not to exceed thirty (30) days and/or a fine in an amount not to exceed Five Hundred Dollars (\$500.00). 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.
- (e) Any responding agency may have the right to collect restitution for any expenses incurred by the agency as caused by violation of the permit by said holder.

SECTION 6. HOME RULE POWER. That the provisions of K.A.R. 28-19-647 are superseded upon the adoption of this Resolution pursuant to County home rule power and K.S.A. 19-101d.


SECTION 7. REPEALER. Jefferson County Resolution No. 07-12 is hereby repealed.

SECTION 8. EFFECTIVE DATE. This resolution shall be in full force and effect publication in the official newspaper of Jefferson County, Kansas.


ADOPTED this 19th day of August, 2019.

BOARD OF COMMISSIONERS  
JEFFERSON COUNTY, KANSAS

  
Wayne Ledbetter, Chairman

  
Richard Malm, Member

absent  
Lynn Luck, Member

  
ATTEST: Linda M. Buttron, County Clerk

