

RESOLUTION NO. 2007-12

RESOLUTION REQUIRING PERMITS 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 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. PERMIT REQUIRED. Any person, business, corporation or other entity conducting open burning operations must first obtain a permit to conduct such open burning operations from the Fire Chief having jurisdiction within Jefferson County or his designee. A copy of the Permit is attached hereto as Exhibit "A".

(a) That burn permits issued hereby under this resolution shall be valid for no more than one (1) calendar year. In January of each year, upon the request of the permit holder, an application for renewal of a burn permit may be requested.

(b) Permits shall have a unique number supplied by the Fire Chief having jurisdiction within Jefferson County, who shall keep a copy of all burn permits.

(c) The application for an open burning permit shall be in writing and must include the applicant's name, address and phone number(s), burn permit requirements, signature of applicant, date of signature, signature of the Fire Chief or designee, the name of fire department, date of signature and the expiration date of the permit.

(d) Any Fire Chief or designee issuing a burn permit may revoke or deny said permit at any time for good cause shown.

(e) Applicants who have been revoked or denied burn permits by the Fire Chief or his designee having jurisdiction may request an Appeal Hearing to the Fire Chief's Association. The request shall be in writing. The Appeal Hearing will be within sixty days of the receipt of the written request. A Determining Board shall be selected by the members of the Fire Chief's Association by lottery or by utilizing the existing Fire Chief's Association governing board, providing that a sitting member is not the Fire Chief or his designee denying the burn permit. The decision rendered from the Appeal Hearing shall be final for twelve (12) months; applicant may reapply after that time.

SECTION 4. CONSIDERATIONS IN 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 5. PROCEDURES FOR OPEN BURNING FOLLOWING THE ISSUANCE OF THE PERMIT.

Open Burning operations conducted under the herein provided burn permit shall take place only after notification is made, by the permit holder to the Fire Chief or designee having jurisdiction.

(a) Such notification shall be made after 7:30 am 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) The Fire Chief or designee shall notify Jefferson County 911 Communications prior to the beginning of the burn. Notification will include the following information:

1. The burn permit number
2. The name on the burn permit

3. The address and proposed location of the burn
4. What is being burned
5. The radio number of the fire personnel authorizing the burn

(c) Open burning operations conducted hereunder shall be supervised at all times by the burn permit holder until such fire is extinguished.

(d) The burn permit shall be in the possession of this individual at all times during the duration of the burning operations.

(e) The fire must be completely extinguished prior to sunset, unless otherwise authorized by the Fire Chief or his designee.

(f) 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.

(g) 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 6. BURNING BANS. At any time during the term of the burn permit issued under this Resolution, the Board of County Commissioners of Jefferson County, Kansas, shall deem permits invalid in the event that the Board of County Commissioners of Jefferson County Kansas enacts a burn ban, as is prescribed per Kansas statutes and for local disaster emergencies. Burning operations, during burn bans, shall be conducted only under a special permit as issued by the Fire Chief having jurisdiction in the area where the burning operations are to be conducted.

SECTION 7. 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 of their 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 8. HOME RULE POWER. That the provisions of K.A.R. 28-19-647 are superceded upon the adoption of this Resolution, pursuant to County home-rule power and K.S.A. 19-101d.

SECTION 9. REPEALER. Jefferson County Resolution No. 98-5 is hereby repealed.

SECTION 10. EFFECTIVE DATE. This resolution shall be in full force and effect on July 1, 2007 and upon publication in the official county newspaper.

ADOPTED this 19th day of March 2007.

BOARD OF COMMISSIONERS OF
JEFFERSON COUNTY, KANSAS



DAVID CHRISTY, Chairman




FRANCIS GROLLMES, Member



DON EDMONDS, Member

ATTEST:



LINDA M. BUTTRON, Jefferson County Clerk