

RESOLUTION NO. 1233

A RESOLUTION BY THE BOARD OF COUNTY COMMISSIONERS OF ATCHISON COUNTY, KANSAS, 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.

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 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 county Sheriff weekdays between 8:00 a.m. and 5:00 p.m. and obtain a Permit number which shall be applicants 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, structures, storm damage debris. Permittee must be able to provide permit number 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 5 a and 5b, Permittee shall notify the Atchison County Dispatcher at 913-367-4323 that they intend 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.

- c.) For twine and net wrap, feed and seed sacks, farmstead waste, small brush piles leaves and garden plots burns may be conducted by a Permittee without notifying the County Dispatch office. However, Permittee must be able to provide permit number 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. Any person needing guidance may contact the Atchison County Dispatcher to verify what category the burn would fall into and necessary requirements.

8. Any person violating this resolution shall receive a warning on first violation. Atchison County Dispatch shall keep a record of warnings issued in violation of this resolution. Subsequent violation of the terms of this resolution shall contain the following penalties:

- a) 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 plus any costs incurred by the County directly caused by any persons in violation of the terms of this resolution.

b) Those persons authorized to give citations for violating this resolution shall be limited to staff of the Atchison County Sheriff's department.

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. Burn Permits for purposes other than household waste and agriculture purposes may be issued in the discretion and with the restrictions of the Fire Chief for the District in which said burning is intended to take place.

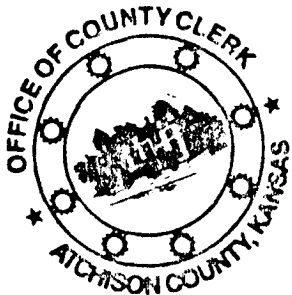
12. Atchison County or any entity of Atchison County shall not be responsible for damage done to permit holders property or neighboring property as a result of a Burn Permit being issued.

13. Information regarding the passage of this resolution shall be aired on KNZA and KAIR.

This is an ordinary home rule resolution and shall take effect and be in force 30 days from and after its passage and publication in the Atchison Daily Globe.

Executed this 21 day of November 2003.

BOARD OF COUNTY COMMISSIONERS
OF ATCHISON COUNTY, KANSAS



Floyd Oswald
Michael Kennedy
George Ross, Jr.

Paulene M. Kee
County Clerk