

RESOLUTION 2015-12

A resolution of the Leavenworth County Kansas Board of Commissioners setting forth standards on the burning of household trash in the unincorporated areas of Leavenworth County, Kansas; setting standards on open burning within Leavenworth County, Kansas; setting forth penalties for the violation of the regulations regarding the burning of household trash and open burning; repealing resolution 2006-23 and superseding all other resolutions regarding the burning of household trash and open burning.

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

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

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

WHEREAS, it has been determined that establishing a process wherein the person conducting an open burn would be required to notify the Leavenworth County Sheriff's Office of the conduct, time, and location of any open burn, and

WHEREAS, the Board of County Commissioners meeting in session on the 11th day of May, 2015, did consider the recommendation of the Leavenworth County Emergency Management Staff.

BE IT THEREFORE RESOLVED:

A. Burning of Household Trash:

1. Burning of household trash shall be allowed without a permit or prior notice in the unincorporated areas of Leavenworth County, Kansas, subject to the following standards:
 - a. All burning of household trash shall be contained within one (1) metal container with a volume not exceeding 55 gallons, for any one (1) parcel.
 - b. Said container shall have a durable metal screen over the top. Said screen shall be of durable metal with a maximum spacing of bars to be one (1) inch.
 - c. Said container shall be mounted on a non-combustible surface in an area free of vegetation within a three (3) foot radius of the container.
 - d. Said container shall be located at least one hundred (100) feet from all property lines.
 - e. 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.
 - f. All burning authorized herein shall take place no sooner than one (1) hour after sunrise nor later the two (2) hours prior to sunset.

B. Open Burning:

1. Open burning of any fields, lots, and/or garden plots shall be allowed in the unincorporated areas of Leavenworth County, Kansas, subject to the following standards:
 - a. Any person(s) or entity intending to obtain permission to conduct open burning shall contact the Leavenworth County Sheriff's Department Dispatch Office and inform the office of their request for permission to conduct open burning.
 - b. Said Dispatch Office shall, in the absence of any countywide or township wide ban on open burning issued by the Board of County Commissioners of Leavenworth County, Kansas, or the Director of Emergency Management, shall grant permission for the open burn to take place, noting the location of the proposed open burn, the time of the proposed open burn, and the nature of the proposed open burn. If either a countywide or township wide burning ban has been issued by any of the above listed individuals said Dispatch Office shall deny permission for the open burn.
 - c. All open burns shall comply with the rules and regulations contained in K.A.R. 28-19-645, 28-19-646, 28-19-647, 28-19-648, or any other such administrative regulations relating to open burning restrictions as may be adopted by the Kansas Department of Health and Environment. The request for permission to conduct open burning shall be made prior to the open burn and said permission shall be valid for one (1) day only.
 - d. Permission for an open burn may be revoked at any time either by the Leavenworth County Sheriff's Department, the Emergency Management Office, or the local Fire Department.

- e. Only on-site material may be burned. Material shall not be brought to site for burning.
- f. No buildings shall be burned.
- g. Only clean lumber may be burned. Treated, stained, or painted materials shall not be burned.
- h. No items shall be burned that create a health hazard or a nuisance.

C. Violations of The Resolution Regarding The Burning of Household Trash and Open Burns:

- 1. For the purpose of any penalty to be assessed to any violation of this resolution it shall be considered prima facie evidence that the person(s) or entity owning, occupying, or controlling any premises upon which an burning of household trash and open burn is being conducted to voluntarily allow said burning of household trash and open burn to take place; this presumption is rebuttable.
- 2. In the event that any person(s) or entity shall allow the burning of household trash or open burn to take place in the unincorporated areas of Leavenworth County, Kansas, in violation of this resolution the County Counselor or other agent of the County as designated by the Board of County Commissioners shall be directed to proceed in competent jurisdiction against the person or persons responsible for any burning of household trash or open burn in violation of this resolution. Violation of the terms of this resolution shall contain the following penalties:
 - a. That the violation of the terms of this resolution shall be construed as a Class U, undefined misdemeanor and shall be subject to the penalties for such misdemeanor as set forth by State Statute.
 - b. That the County is authorized to seek civil penalty against any person(s) or entity violating the terms of this resolution in the sum of not less than \$100.00 nor more than \$1,000 plus any additional costs incurred by the County, or any party acting on behalf of, and under authorization by the County.
 - c. Any violation of the terms of this resolution by any person(s) or entity shall lead to the prohibition of the issuance of any permit to said person(s) or entity for a term of one (1) year from the date of said violation.

D. Resolution 2006-23 and all other resolutions regarding the burning of household trash and open burning are hereby repealed.



ATTEST

Janet Klasinski
Janet Klasinski

Adopted this 11th day of May, 2015
Board of County Commissioners
Leavenworth, County, Kansas

Dennis Bixby
Dennis Bixby, Chairman

Clyde D. Graeber
Clyde D. Graeber, Member

Robert W. Holland
Robert W. Holland, Member