

RESOLUTION NO. 2009 - 17

**A RESOLUTION REQUIRING THE IMPLEMENTATION OF A PERMIT SYSTEM FOR AGRICULTURAL OPEN BURNING IN ALL UNINCORPORATED AREAS OF POTTAWATOMIE COUNTY, KANSAS; ADOPTING PROCEDUES AND REQUIREMENTS FOR SUCH PERMIT SYSTEM FOR OPEN BURNING; PROVIDING PENALTIES FOR VIOLATION OF THIS RESOLUTION; AND RESCINDING PRIOR RESOLUTION 2006-84**

WHEREAS, K.A.R. 28-19-645 prohibits open burning in Kansas, except as authorized by K.A.R. 28-19-647 and K.A.R. 28-19-648, and

WHEREAS, the Board of County Commissioners of Pottawatomie County, Kansas, has determined that uncontrolled and unauthorized open fires may present a danger to persons and property within the County, and

WHEREAS, the Board of County Commissioners of Pottawatomie County, Kansas, has further determined that a policy of notification, permits and related rules and regulations will reduce such dangers.

NOW THEREFORE, BE IT RESOLVED BY the Board of County Commissioners of Pottawatomie County, Kansas, that this resolution shall apply to all areas located in Pottawatomie County, Kansas, except those areas located within the corporate limits of any city.

BE IT FURTHER RESOLVED that no person shall cause or permit the open burning of any waste, structures, vegetation, grass, trees and limbs, or any other material on any premises except as authorized by K.A.R. 28-19-647 and K.A.R. 28-19-648. Open burning shall not include recreational fires used in camping or cooking for immediate consumption.

BE IT FURTHER RESOLVED that any person conducting open burning operations shall, prior to burning, obtain a permit to conduct open burning operations exempted by the K.A.R. 28-19-647 and K.A.R. 28-19-648. Such permit shall be obtained from the

Pottawatomie County Fire Supervisor and/or the Emergency Manager of Pottawatomie County. The application forms for such permit shall be provided by said office and may also be obtained on the Pottawatomie County website and may be mailed or otherwise delivered to the Fire Supervisor or Emergency Manager. The Fire Supervisor and/or the Emergency Manager shall have the exclusive authority to determine the location of the burning, the type and amount of material to be burned, the date or dates for which said burn permit shall be valid, the time or times during which said materials may be burned, and the conditions under which burning shall be allowed. Any person conducting an open burning with a permit issued pursuant to this Resolution shall provide sufficient personnel to control an open burning and confine such open burning to the land which is the subject of such burn. A burn permit may impose additional requirements to ensure the safety of persons and property, and such permit shall be subject to all other applicable laws and regulations.

BE IT FURTHER RESOLVED that permits will be issued by Pottawatomie County Fire Supervisor and/or the Emergency Manager. The person conducting the burn shall apply for and have obtained the burn permit before any burn will be considered authorized. All burn permits are nontransferable and will be required to be renewed every five years, unless revoked or amended by the County Fire Supervisor. Any burn permit issued hereunder shall terminate and shall be of no further force and effect after the five year anniversary date of the issuance of such permit, unless renewed as provided herein.

BE IT FURTHER RESOLVED that nothing herein shall be deemed to prohibit the Fire Supervisor or Emergency Manager from issuing a Burn Ban where weather or other conditions make open burning unsuitable. It shall be unlawful for any person to conduct any open burning at any time when a Burn Ban is in effect.

BE IT FURTHER RESOLVED that it shall be unlawful for any person to violate any provision of this Resolution; to fail to obtain a permit as

required by the provisions of this Resolution; or to violate any provision of any permit issued pursuant to the provisions of this Resolution.

BE IT FURTHER RESOLVED that any person who violates the provisions of this Resolution:

(a) shall be guilty of a class B misdemeanor where an open burning results in damage to any property, or bodily harm to any person;

(b) shall be guilty of an unclassified misdemeanor, the penalty for which shall be a fine of not more than One Hundred Dollars (\$100.00), where such person fails to obtain a permit as required by this Resolution or otherwise fails to comply with the conditions or provisions of any such permit, and an open burning results in no bodily harm to any person and no damage to any property.

BE IT FURTHER RESOLVED that the Court may require any person convicted of a violation this Resolution:

(a) to pay restitution to any person injured as a result of any open burning in violation of the provisions of this Resolution;

(b) to pay restitution for any damages to property resulting from any open burning in violation of the provisions of this Resolution;

BE IT FURTHER RESOLVED that the Court shall require any person convicted of a violation of this Resolution to pay or reimburse any costs or expenses incurred by any Fire District, Fire Department, or Emergency Department or Emergency Personnel resulting from any open burning in violation of the provisions of this Resolution.

BE IT FURTHER RESOLVED that Pottawatomie County Resolution 2006-84 is hereby repealed.

BE IT FURTHER RESOLVED that this Resolution shall take effect and shall be in force from and after September 1, 2009.

Adopted this 20<sup>th</sup> day of April 2009

BOARD OF COUNTY COMMISSIONERS OF  
POTTAWATOMIE COUNTY, KANSAS

BY: Stan Hartwick  
CHAIRMAN

Kevin Seaman  
MEMBER

Wendell  
MEMBER

Attest:

Susan Fidge  
County Clerk  
4/20/09