

RESOLUTION NO. 2023-03

A RESOLUTION PERTAINING TO OPEN BURNING AND ESTABLISHING REQUIREMENTS, RESTRICTIONS AND PROHIBITED ACTS WITH RESPECT THERETO; AND RESCINDING RESOLUTION NO. 2017-12

WHEREAS, K.S.A. 19-101a, et seq., authorizes the Board of County Commissioners to transact all county business and to perform all powers of local legislation and administration it deems appropriate; and

WHEREAS, on, May 30, 2017, the Board of County Commissioners of Reno County adopted Reno County Resolution No. 2017-12, a Resolution which established notification requirements for open burning and certain rules with respect thereto; and

WHEREAS, the Board of County Commissioners desires to provide substitute legislation with respect to Resolution No. 2017-12; and

WHEREAS, the Board of County Commissioners of Reno County, Kansas, pursuant to K.S.A 19-101 (b) hereby enact the following prohibitions and penalties hereinafter set forth in this Resolution finding that the same does not conflict with existing state law uniform to all counties and enhances the penalties provided by law.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF RENO COUNTY, KANSAS, that the following regulations, restrictions and prohibited conduct be adopted in Reno County, Kansas:

SECTION 1 – DEFINITIONS: “Open Burning” shall mean for purposes of this Resolution the burning of brush, structures and construction debris, trash, and debris piles.

“Agricultural Open Burning” shall mean the open burning of vegetation such as grass, woody species, crop residue and other dry plant residue for purpose of crop, range, pasture, wildlife, or other watershed management.

“Recreational Burning” shall mean burning conducted in a safe container with cover sufficient to prevent embers from escaping, outdoor fireplaces, chimineas, and fire pits. This shall not include cooking fires or burning for ceremonial purposes; provided, such fires are manageable and attended by a responsible person.

“Reasonable Person” shall mean a responsible, competent individual of majority age who is not under the influence of alcohol or other intoxicating substances.

SECTION 2 – This Resolution shall be applicable in the unincorporated area of Reno County, Kansas. This resolution may be adopted by any incorporated city inside the county. Burning within the boundaries of a Kansas State Park or federally owned land conducted in compliance with the rules and regulations set forth by such State Park or federally owned land shall be presumed safe in the absence of evidence to the contrary.

SECTION 3 – No person in an individual capacity or on behalf of a corporation, LLC, partnership, or other legal entity, shall conduct, permit, or allow Open Burning or Agricultural Open Burning when prohibited by this Resolution or when conducted in violation of the requirements hereinafter prescribed.

- a. Prior to commencement of Open Burning or Agricultural Open burning, the party responsible for the burn shall obtain a burn permit for each parcel they intend to burn. The permit can be obtained from www.renogov.org. Each burn permit is valid from the date of issuance through the whole year, expiring December 31 of the year in which it is issued.
- b. The holder of the burn permit shall notify Hutchinson/Reno County Emergency Communications Center (HRCEC) by telephone at 620-694-2800 of his or her intent to burn and shall provide his or her name, address, telephone number, permit number, and the location, nature, and circumstances of the proposed burn. Failure to provide prior notification of intent to burn as herein provided shall constitute a violation of this Resolution and subject the violator upon conviction to the penalties specified at Section 7.

HRCEC personnel shall advise the caller of the existence of any burn ban then in effect in Reno County and if the weather conditions are not favorable for burning.

- c. The location for Open Burning, and Agricultural Open Burning shall not be less than 50 feet from any structure, and provisions shall be made to prevent the fire from spreading to within 50 feet of any structure.
- d. Open Burning, Agricultural Open Burning, and Recreational Burning are prohibited when any of the following factors are applicable, to wit:
 - 1) When a burn ban is in effect;
 - 2) When the wind speed is more than 15 mph as applied to Open Burning only;
 - 3) When the grassland fire danger index is VERY HIGH; OR ABOVE anytime during the day of the burn;
 - 4) When Open Burning or Agricultural Burning will commence earlier than one hour before sunrise or later than two hours prior to sunset;
 - 5) When a burn creates a safety hazard at an airport or a traffic safety hazard.
- e. Stand-alone brush piles may not be commenced when the fire index is forecasted to be VERY HIGH or ABOVE anytime during the 72 hours after ignition. Brush piles will have at least a one hundred (100) foot fire break from any combustible material or structures. City and County owned brush sites may be exempt from Section 3d, provided the jurisdiction having authority conducts a site inspection and approves the burn.

- f. No open burning or agricultural open burning may be commenced later than thirty (30) minutes following notification of the proposed burn to the Emergency Communications Center.
- g. For Agricultural Open Burning, brush piles within the burn area must be a minimum one hundred (100) feet from all property lines. A fire break of at least thirty (30) feet on all sides of the field proposed to be burned shall be provided by the responsible person.
- h. For Open Burns, adequate clearance from combustible materials unintended for burning and a minimum of one hundred (100) feet from all structures shall be provided and maintained by the responsible party.
- i. Open Burning materials shall not include heavy smoke-producing materials, such as heavy oils, tires, pallets, railroad, and bridge lumber, treated lumber, plastics, or rubber.
- j. The responsible person shall ensure that all Open Burning, Agricultural Open Burning, and Recreational Burning conducted shall be supervised at all times by a reasonable person until the threat of fire has been eliminated.
- k. In any prosecution for violation of this Resolution made pursuant to Section 7 below, it shall be prima facie evidence that the person who owns or controls the property on which burning occurs has caused or permitted the open burning.

SECTION 4 – TEMPORARY BURN BAN: In addition to other burn ban authority, the County Emergency Management Director (the “Director”) or the County Fire Administrator (the “Fire Administrator”) in the absence of said Director, shall have the authority to issue a Temporary Burn Ban Order to be effective for up to twelve (12) hours. Said Order may be issued when in the discretion of the Director or the Fire Administrator insufficient fire apparatus or fire response personnel are available for emergency response. Temporary Burn Ban Orders shall be issued in written form and provided to HRCECC by hand delivery, by e-mail, or by fax. A District Fire Chief or his/her designee may temporarily prohibit an individual from burning for the remainder of the day if that individual was unable to properly maintain their burn.

SECTION 5 – BURN BAN: A burn ban can be put in place in the form of a local disaster declaration by the Board of County Commissioners. This burn ban shall pertain to all open burning and agricultural open burning in the unincorporated areas of the county.

SECTION 6 – No District Fire Chief or his designee shall have the authority to waive or contravene the provision of this regulation; PROVIDED, fire suppression activities supervised by Fire District personnel during an emergency response shall be exempt from the requirements of this regulation.

SECTION 7 – PENALTY. Any person or other entity who violates this Resolution shall upon conviction be guilty of a class B misdemeanor and shall be subject to a fine of not more

than One Thousand Dollars (\$1,000) or confinement in the Reno County Correctional Facility (Jail) for a period not to exceed 180 days, or both such fine and imprisonment. Further, in the discretion of the presiding Judge, any person convicted for violating this Resolution shall make restitution to property owners for actual damages and also to any Fire District for costs and expenses incurred by the Fire District and other firefighting and emergency personnel responding to the scene of the burn due to the conduct constituting the violation.

SECTION 8 – This Resolution supersedes and repeals Reno County Resolution 2017-12.

SECTION 9 – This Resolution shall be effective from and upon its adoption.

SECTION 10 – This Resolution shall be published one time in the official County newspaper and shall take effect upon said publication. Simultaneously with the effective date of this Resolution, Reno County Resolution No. 2017-12 is rescinded.

ADOPTED in regular session this 9th day of January, 2023.

BOARD OF COUNTY COMMISSIONERS OF
RENO COUNTY, KANSAS



DANIEL FRIESEN, Chairman

ATTEST:



Donna Patton, Reno County Clerk