

Resolution 18-05

**A RESOLUTION ESTABLISHING THE PROCESS OF OPEN BURN PERMITTING IN CHEYENNE COUNTY, KANSAS, AND AREA COVERED BY RESOLUTION AND AUTHORIZING AS ASSIGNING COSTS FOR SERVICES RENDERED BY THE CHEYENNE COUNTY, KANSAS, RURAL FIRE DISTRICT.**

**WHEREAS**, Cheyenne County, Kansas is a county municipal government with the power of home rule pursuant to K.S.A. 19-101 and the Board of County Commissioners is the governing and legislative body of said municipality;

**WHEREAS**, the Board of County Commissioners have determined that is in the best interests, safety, and welfare of the citizens and property of Cheyenne County, Kansas to establish and set forth the process for obtaining a permit to conduct open burning when conditions allow, as well as area covered by the resolution.

**NOW, THEREFORE, IT IS THE FINDING OF THE BOARD OF COUNTY COMMISSIONERS OF CHEYENNE COUNTY, KANSAS** that all previous resolutions concerning open burning should be and are hereby amended by striking or deleted language and underlining all new language of the previous resolutions, and that said resolution shall take immediately upon publication.

**ARTICLE ONE: OPEN BURNING**

- A. For the purpose of this resolution, "open burning" means setting, starting, igniting, maintaining, spreading, fueling, or failing to extinguish or taking precautions to prevent the spread of an open fire. An "open fire" shall be defined as burning of fields, pastures, stubble, vegetation, debris, waste, trash, garbage, structures, or any other material or matter when the resulting fire is not contained within a safe and fire proof container, with such container being constructed of fire resistant materials and with a lid, top, or door that confines the sparks, ashes, and embers of the fire safely within the container.
- B. No person shall set, cause, or permit open burning within the unincorporated area of Cheyenne County, Kansas without obtaining a Burn Permit from the Fire Department, Emergency Management, or Sheriff's Office, and upon acquiring such a permit, shall comply with all of the conditions specifically stated in the permit.
- C. No person who has set a fire shall leave the fire unattended until appropriate precautions have been taken to prevent the fire from spreading.
- D. No person shall set an open fire without first taking precautions to insure that the fire will be safely contained within the perimeters of the area sought to be burned and that the fire will present no danger to the health or property of adjoining landowners.
- E. No Person shall set an open fire, even if the person has a burn permit, when the Fire Department, or Emergency Management, or Board of County Commissioners of Cheyenne County, Kansas have issued a burn ban on open fires, or determined conditions are not favorable for open burning.

## ARTICLE 2: EXEMPTIONS

- A. A fire used for the preparation of food shall not be considered to be an open fire, as long as the fire is contained within a fireplace, stove, barbeque grill, barbeque pit or smoker.
- B. A fire situated within a county park or recreational area or private recreational area or private campground shall not be considered to be an open fire as long as the fire is contained to an area in which fires are specifically allowed and there have been no fire bans decreed by the Governor of Kansas, the local Fire Chief, Emergency Management Director, or the Board of County Commissioners of Cheyenne County, Kansas.
- C. The burning of household trash, or waste shall not be considered to be an open fire as long as the fire is contained within a safe and fireproof container or structure, with such container or structure having a lid, top or door that effectively prevents the escape from the container or structure having a lid, top or door that effectively prevents the escape from the container of ashes, embers, or sparks and there have been no fire bans decreed by the Governor of Kansas, the local Fire Chief, Emergency Management Director, or the Board of County Commissioners of Cheyenne County, Kansas. The burning of incineration of combustible, toxic or hazardous materials within such containers or structures is expressly prohibited.

## ARTICLE 3: PERMITS REQUIRED

- A. Burn Permits shall be required for all open burns or fires not specifically exempted in Article 2 of this resolution. Burn Permits can be obtained by contacting the Cheyenne County Dispatch center. Burn permits issued, shall expire at the end of each calendar year on December 31. Burn Permit shall be in possession prior to burning.
- B. On the day of the purposed burning, a citizen must call Cheyenne County Dispatch directly at (785) 332-8822 prior to beginning such controlled burn to confirm the authority to burn. Should the Fire Chief for the jurisdiction or designee, or Emergency Management Director or designee, determine conditions on that day be inappropriate for continuing with a controlled burn, dispatch will deny permission to proceed with burning at that time.
- C. A person requesting to burn shall provide certain information including: Location of purposed burn; proposed date and time; purpose of the fire; the objects or matter to be burned; the distance from nearest structure or residence; the name and contact of the person who will set and control the fire; and the precautions that the applicant will take to insure that the fire will be contained. Any burn of large acreage may require a burn plan to be submitted by the land owner or authorized tenant when purposing the burn. Such plan, if requested, shall be submitted to the Cheyenne County Fire Chief or designee. The Fire Chief has no more than ten (10) days to approve or deny the burn plan. If the plan is approved, permit will be issued to the landowner or authorized tenant. The burn plan is good for the calendar year only.
- D. Burn permits may be issued with specific conditions attached to the permit if necessary for the purpose of insuring the public health, safety, and welfare. The permit shall specifically include thereon: name, address, and telephone number of person obtaining permit and responsible for the setting and controlling fire; physical location for which the permit has been issued; the objects and matter to be burned; and any specific conditions attached to the permit, such as minimal wind speed of mph and maximum wind speed of 15 mph, proximity to neighboring property lines or structures, any other conditions that the Fire Department of Cheyenne County finds necessary for the safety and welfare of the public. A copy of the permit shall be kept on file

shall be furnished, upon request, to the Sheriff's Office, the State Fire Marshall, the County Attorney, the local Emergency Management, and the Fire Departments.

- E. Burn permits for "Agricultural purposes" shall be considered to be the burning of stubble from fields, dead grass from pastures and/or brush and trees resulting from the clearing of fence lines, fields, and pastures.
- F. The Board of County Commissioners of Cheyenne County, Kansas, or the Fire Chief, may revoke a previously issued burn permit at any time for good cause. Burn permits issued in accordance with this resolution shall be invalid in the event that the Board of County Commissioners, or Emergency Management, or Fire Department enacts a burn ban at any time during the term of the burn permit.
- G. All burning operations conducted in accordance with this Resolution shall be completed with the permission of the landowner and/or tenant of the property upon which the burning operations are conducted. It is the responsibility of the permit holder to obtain the required permission as it shall be prima facie evidence that the person who owns or controls the property on which the burning occurs has caused or permitted the open burning.

#### **ARTICLE 4: EMERGENCY SITUATIONS**

- A. The Fire Department, Emergency Management, or the Board of County Commissioners of Cheyenne County, Kansas are hereby authorized to prohibit all open burning within the County when conditions become severe due to weather, drought, natural or manmade disasters, security reasons, lack of resources as to constitute a serious danger to persons and/or property within the County. Such Authorization shall become effective upon notice of such to the general public by any or all of the following methods: written publication in the official County newspaper, written notice on the County's official web-site and/or oral and visual announcements.
- B. The Chairman of the Board of County Commissioners of Cheyenne County, Kansas, are authorized to declare a state of disaster emergency which bans all burning including but not limited to permitted open burning in all unincorporated areas of Cheyenne County to mitigate against loss of life and property pursuant to K.S.A. 19-101a and K.S.A 48-932 and amendments thereto. Such Authorization shall become effective upon notice of such to the general public by any or all of the following methods: written publication in the official County newspaper, written notice on the County's official web-site and/or oral and visual announcements.
- C. The aforesaid prohibition on open burning shall be removed once the conditions have been sufficiently alleviated so as to no longer constitute a serious danger to the general public and property.

#### **ARTICLE 5: PENALTIES**

- A. Any person who fails to obtain a permit as above required, who abandons a fire that has not been extinguished, who fails to adhere to the terms of the permit or who otherwise knowingly and willfully violates this Resolution shall be subject to prosecution in the District Court of Cheyenne County, Kansas, by the County Attorney.
- B. It is an unclassified misdemeanor to violate this resolution and any person found to be guilty of violating this resolution shall be subject to a fine not to exceed \$500.00 and/or confinement in the county jail not to exceed one month or both.

C. The Court, upon conviction of the person so charged and upon the County Attorney introducing a written notice from the County Fire Chief or duly authorized representative of the Fire Department stating an itemized list of the costs incurred by the Fire Department for responding to the fire, may order that a person convicted of violation to this Resolution be required to reimburse the fire department/fire departments for the costs incurred in fighting and extinguishing the fire caused by violation of this Resolution and make the reimbursement of such costs a condition of probation.

The costs for violation of this Resolution are approved by the Board of County Commissioners on an annual basis, if necessary, by resolution as need arises to adjust for cost of labor/equipment/etc.

**Adopted this 30th day of March, 2018**

**ATTEST:**

[Redacted signature]

Scott Houtman, County Clerk

**THE BOARD OF COUNTY  
COMMISSIONERS OF CHEYENNE COUNTY**

[Redacted signature]

Terry Rieger, Chairman

[Redacted signature]

John Garner, Member

[Redacted signature]

Roger Faulkender, Member

