

RESOLUTION NO. 09-19-11A

DATE EFFECTIVE: September 29, 2011

A RESOLUTION PROVIDING FOR THE DEFINITION AND PROHIBITION OF CERTAIN OPEN BURNING WHEN DEEMED TO BE INJURIOUS TO THE HEALTH, SAFETY AND WELFARE OF THE PUBLIC; DEFINING VIOLATIONS AND PROVIDING PENALTIES THEREFOR.

WHEREFORE, the Board of County Commissioners of Pratt County, Kansas, wishes to provide for the protection of the inhabitants and property of Pratt County by defining and providing for the prohibition of open burning, as defined herein, at certain times and in certain ways which will be injurious to the health, safety and welfare of the inhabitants within Pratt County and to provide penalties for the defined violations.

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF PRATT COUNTY, KANSAS, that:

SECTION ONE: Definitions.

The following words, terms and phrases, when used in this Resolution, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. Where terms are not defined, they shall have their ordinary accepted meanings within the context with which they are used. Words in the singular include the plural and the plural the singular. Words in the masculine gender include the feminine and the feminine the masculine:

- (a) **Agricultural activities** means the use of any land for the purpose of growing plants, crops, trees and other agricultural or forestry products or for the purpose of raising livestock, poultry, or dairy products.
- (b) **Board of County Commissioners** means the Board of County Commissioners of Pratt County, Kansas.
- (c) **Burn Ban** means the general or limited prohibition against open burning enacted, pursuant to the terms of this Resolution, by the Board of County Commissioners of Pratt County, Kansas.
- (d) **Burn Regulations** mean all regulations adopted from time to time by the Board of County Commissioners in furtherance of the purposes of this Resolution.
- (e) **Controlled Burn** means any burn that is associated with agricultural activities, including but not limited to, burning pasture land, grassland, woodland, or stubble.

- (f) **County** means all of the county other than land areas within incorporated cities.
- (g) **Open Burning** means any burning including, but not limited to, the burning of fields, stubble, trash, debris, vegetation, residential trash, or other matter, other than burning in a safe and fire-proof container with cover sufficient to prevent embers from escaping.
- (h) **Person** means any individual, corporation, partnership, limited liability company, trust or other entity which directly or indirectly participates or engages in a Controlled Burn.

SECTION TWO: Activities or conditions prohibited, enumeration.

- (a) It is unlawful for any person to initiate, engage in, or permit open burning except pursuant to and in accordance with the terms of this Resolution.
- (b) It is unlawful for any person to initiate, permit, institute, engage in, or permit open burning, including but not limited to controlled burns, at such time as a burn ban is in effect.
- (c) Any party conducting controlled burns in Pratt County, Kansas, shall comply with all Burn Regulations.

SECTION THREE. Enforcement and penalties.

- (a) This Article is enforceable under the Code for the Enforcement of County Codes and Resolutions, K.S.A. 19-4701, *et seq.* Any law enforcement officer being duly authorized and having jurisdiction in the county may issue a uniform complaint and notice to appear in district court to any person violating any provision of this Resolution.
- (b) Violations of this Resolution are punishable by a maximum fine of \$2,500.00 for each violation.
- (c) In addition to the penalties provided in this section, any person convicted under this Resolution shall be required to reimburse any governmental entity for fire-fighting costs associated with any illegal open burning as follows:
 - 1. \$300.00 per vehicle for the first two hours the vehicles are on call.
 - 2. \$200.00 per vehicle for each additional hour.
 - 3. A maximum fee of \$5,000.00 per incident, including all charges levied under (c) 1, (c) 2, and (c) 4 may be levied at the discretion of Pratt County Commissioners.

4. Any and all additional expenses associated with private vehicles requested by the appropriate fire department.

SECTION FOUR. Procedure for Initiating Burn Ban

- (a) The Board of County Commissioners shall be authorized to initiate a Burn Ban under the following terms and conditions:

1. The Board may, by majority vote, initiate a general prohibition against open burning for periods of time not to exceed fourteen (14) days. Said prohibition may be extended for periods of time not to exceed fourteen (14) days for each extension.
2. The Board may, by majority vote, initiate limitations regarding open burning for periods of time not to exceed fourteen (14) days. Said limitations may be extended for periods of time not to exceed fourteen (14) days for each extension. Those limitations may include but are not limited to:
 - (i) Open burning at such times that wind velocity is less than 15 miles per hour or less;
 - (ii) Burning to be limited to approved containers;
 - (iii) Burning under such circumstances that will limit the potential spread of fire;
 - (iv) Burning to be limited to such times, places and circumstances as may be approved after consultation with the fire chief of a particular fire department or fire district.

SECTION FIVE. Notice provisions:

- (a) At such times as the general prohibition or limited prohibition against burning is instituted, it shall be the duty of the Pratt County Clerk to generally publicize said burn ban. At minimum, the clerk shall notify the following:
 1. Pratt County Law Enforcement agencies;
 2. The Pratt Tribune;
 3. Local radio station KMMM;
 4. Regional television stations.

- (b) At such times as the general prohibition or limited prohibition against when controlled burning is instituted, the Pratt County Clerk shall cause notice to be prominently displayed in all county-owned buildings.
- (c) Notwithstanding the foregoing notice provisions, failure to receive notice as to a burn ban will not be a defense to violating the burn ban as the person engaged in open burning is responsible to determine if there is a burn ban in effect.

SECTION SIX: Requirements for Open Burning:

- (a) Prior to initiating, engaging in, or permitting burning at such times as open burning is permitted under the terms of this Resolution, the party engaged in burning shall notify the Dispatcher at the Pratt County Law Enforcement Center at (620) 672-5647 of the intention to burn. Information concerning the location, including specific travel direction, approximate beginning time and approximate length of burn shall be given to the Dispatcher at the time of notification. The Dispatcher shall notify the appropriate fire department if necessary.
- (b) The Emergency Dispatcher for Pratt County, Kansas, shall be contacted and advised of the completion of the burn.
- (c) This provision shall not apply to the following burns:
 - 1. Barbeque and cooking fires;
 - 2. Burning trash in a container.
- (d) The Board of County Commissioners are authorized to adopt rules and regulations regarding burning allowable under this Resolution.
- (e) A copy of this Resolution and any regulations adopted pursuant to this Resolution shall be available in the office of the Pratt County Clerk.

SECTION SEVEN. Adoption of Rules and Regulations.

A copy of the Burn Regulations are attached hereto as Exhibit "1". Those Regulations are adopted as the Regulations for Open Burning when allowed under this Resolution. Said Regulations may be amended from time to time at the discretion of the Board of Pratt County Commissioners.

SECTION EIGHT. Savings clause.

If any section, subsection, sentence, clause, phrase or portion of this Article is for any reason held to be invalid or unconstitutional by the final decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the Article. The Board of County Commissioners declares that it would have adopted this Article and each section, subsection, sentence, clause, phrase, or portion thereof, despite the fact that any one or more section, subsection, sentence, clause, phrase, or portion thereof would be declared invalid or unconstitutional.

SECTION NINE. Other remedies unaffected.

Nothing in this Article shall be construed to limit or forbid the County or any other person from pursuing any other remedies available at law or in equity to enforce the provisions of this Resolution.

SECTION TEN. Repeal of previous Resolution.

Any previous Pratt County Resolutions in conflict with this Resolution is hereby repealed.

SECTION ELEVEN. Publication.

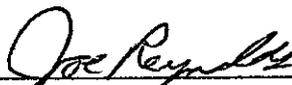
The Pratt County Clerk is directed to publish this Resolution once in the official county newspaper.

SECTION TWELVE. Effective date.

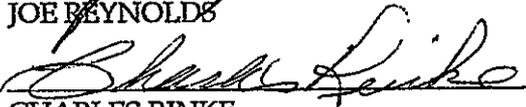
This Resolution shall take effect immediately upon publication.

Passed and adopted this 19th day of September, 2011.

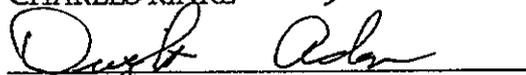
BOARD OF COUNTY COMMISSIONERS OF
PRATT COUNTY, KANSAS



JOE REYNOLDS



CHARLES RINKE



DWIGHT ADAMS

ATTEST:



SHERRY KRUSE, County Clerk

APPROVED TO FORM:

A handwritten signature in black ink, appearing to read "Gordon B. Stull", written over a horizontal line.

GORDON B. STULL
County Counselor

BURN REGULATIONS

Adopted pursuant to Pratt County Resolution # 09-19-11A

Effective September 29, 2011

1. The party shall not burn heavy smoke-producing materials including heavy oils, tires, tarpaper, railroad ties, structures, pallets, plastics, construction materials, or anything containing a hazardous or toxic chemical.
2. The party shall not initiate burning during the nighttime, which for the purpose of this regulation is defined as the period from two hours before sunset until one hour after sunrise. A person shall not add material to a fire after two hours before sunset.
3. The party shall not burn during periods when surface wind speeds are below 5 mph or more than 15 mph and the person, party conducting the burn shall insure that the burning is supervised until the fire is extinguished.
4. The party shall not burn within 1,000 feet of any occupied dwelling, unless the occupant of that dwelling has been notified before the burn, and shall not conduct a burn that creates a traffic hazard or other safety hazard. If burning is to take place within 1,000 feet of a roadway, the person, party conducting the burn shall notify the highway patrol, sheriff's office, or other appropriate state or local traffic authority before the burning begins. If burning is to take place within one mile of an airport, the person, party conducting the burn shall notify the airport authority before the burning begins.
5. Once started, a burn shall be continuously supervised by a person experienced with the control and extinguishing of such fires and such additional personnel as are reasonably needed for such purposes, until the fire is fully extinguished.
6. Appropriate fire extinguishment equipment shall be available at the burn location.
7. No burning will be allowed in the same mile section as, or directly across the road from an active emergency fire scene, until the fire has been extinguished and all fire apparatus, equipment, and personnel have left the scene.
8. Adequate clearance should be provided from all combustibles, 100 feet from any structure and 10 feet from any property line.
9. A fire break (plowed, disced, or mowed) of at least 50 feet on all sides of the area to be burned must be established before burning.

10. Burning privileges may be temporarily suspended if the resources of the fire department in a given area are all committed. Burning will be allowed to resume when those resources are once again available to respond.

11. Burning is subject to any other applicable State or Federal Statutes, laws or regulation.