

RESOLUTION NO. 2017-27

A RESOLUTION PERTAINING TO OPEN BURNING OF PASTURE, TILLABLE FARM GROUND, CONSERVATION RESERVE PROGRAM LAND, WATERWAYS, RIGHTS-OF-WAY AND OTHER LAND AND REPLACING RESOLUTION 2014-05 AND RESOLUTION 2017-07.

WHEREAS, the grass and crop land of Kansas forms an important part of our economy, and provides for the protection of watersheds, forage for livestock, refuge for wildlife and recreational opportunities. Recognition that proper land management and agricultural economics may require the utilization of controlled prescribed burns is imperative. Many positive effects in ecosystems may be realized by correctly timing and conducting prescribed burns, netting ecological and economic benefit. However, wildfires endanger those resources, real and personal property, and the lives of residents and visitors in these areas; and

WHEREAS, dry and windy weather conditions and above normal temperatures, combined with open public burning without consulting local fire departments sometimes creates a fire hazard to the grass and crop land of Marion County, Kansas; and

WHEREAS, once started, these fires are often difficult to control. Out of control fire impacts the resources of rural fire districts not only financially, but in manpower as well.

WHEREAS, the damage caused by out of control fires can be minimized by requiring the public to follow certain rules and regulations.

NOW, THEREFORE, THE BOARD OF COMMISSIONERS, MARION COUNTY, KANSAS, DO HEREBY RESOLVE AS FOLLOWS:

- I. **DEFINITIONS:** The following definitions apply to this resolution:
 - A. **Open Fire:** Any fire that is not started and contained in a non-combustible container for the duration of the burning activity.
- II. **REGULATIONS AND REQUIREMENTS:** Any person starting a fire for an open burn as defined herein shall comply with the following:
 - A. Prior to any such burning, the dispatcher at the Marion County Sheriff's Office at 620-382-2144 shall be notified of the intent to burn within **120 minutes** prior to the setting of the fire. Information concerning the location, including specific travel directions, approximate beginning time and approximate length of time the burn will occur shall be given to the dispatcher at the time of the notification. In the event the fire is not started within 120 minutes of the estimated time, a new call must be placed to verify intent and permissibility to burn before ignition takes place.
 - B. No open fires shall be set if the Marion County Sheriff's Department deems conditions to be too dangerous. The Marion County Sheriff's Department shall use the Grassland Fire Danger Index to determine whether or not an open burn will be authorized. If the index is **VERY HIGH** or **ABOVE** during the estimated duration of the burn, no open burning shall be authorized.

- C. All open burning shall be attended from the time of starting to the time the fire is contained. Reasonable means must be immediately available to control or contain the fire.
1. A person shall not conduct a burn that creates a traffic safety hazard. If conditions exist that may result in smoke blowing toward a public roadway, the person conducting the burn shall give adequate notification to the highway patrol, Marion County Sheriff's Office, or other appropriate state or local traffic control authorities before burning;
 2. A person shall not conduct a burn that creates an airport safety hazard. If smoke may affect visibility at an airport, the person conducting the burn shall give adequate notifications to the appropriate airport authorities before burning.
 3. Burning at night is discouraged due to the elevated risk to emergency response personnel and to those seeking to contain the prescribed burn.
- D. The person setting the open fire assumes all responsibilities for any fire damage that may result from said fire to neighboring property.
- E. The Marion County Emergency Management Director may impose a temporary countywide burn ban, during a state of immediate emergency, during which time no burning will be allowed under any circumstances. In the event that the Emergency Management Director exercises this authority, they shall notify the Marion County Commissioners as soon as it is practicable. The County Emergency Management Director shall have the authority to remove the temporary ban as soon as conditions safely allow.
- F. The Fire Chief of each fire district and municipality and contracted fire protection area and township shall have the authority to impose a burn ban in their district or area of responsibility when they deem it necessary, during a state of immediate emergency. This authority shall only be implemented if the removal of department resources from a current emergency will create an immediate or elevated hazard to life or property. No new burning will be allowed in said district, municipality, contracted fire protection area, or township under any circumstances. This temporary ban shall expire automatically after a period of three hours unless extended by the Fire Chief. These extensions shall be a period of two hours each. No more than two periods of extension shall be permitted without approval from the County Commission. The Fire Chief may, at their discretion, remove the temporary ban at any time prior to the automatic expiration.
- G. Part "E" and Part "F" do not in any way remove or usurp the authority or ability of the Marion County Commission to impose a countywide burn ban at their discretion.
- H. This resolution may be subject to review on an annual basis by a committee of Fire Chiefs and Landowners.
- I. The website that will be used by the Marion County Sheriff's Office to find fire / weather conditions for open burning is: <http://www.srh.noaa.gov/ridge2/fire/>

III. **PENALTIES AND FEES:** In accordance with K.S.A. 19-4701 and 19-102(d), a violation of the above Regulations and Requirements shall result in the person setting the open fire being subject to the following, to wit:

- A. A violation of the above Regulations and Requirements shall be considered a misdemeanor and any person convicted of violation of the resolution shall be subject to a fine of no less than \$100.00 and no more than \$1,000.00 and / or a thirty day jail sentence.
- B. If a fire department is called to or responds to an open fire, and the person responsible for the fire has not complied with the notification requirements and safety precautions, fees may be charged to that person as follows:
 - 1. \$75.00 per hour per vehicle for each vehicle on site, with a minimum charge for at least 2 hours for each vehicle.
 - 2. \$25.00 per man hour for each firefighter on site, with a minimum charge for at least 2 hours for each firefighter.
 - 3. Any and all losses to equipment as a result of fire.

IV. **LIABILITY FOR DAMAGES:** All burning conducted that is not in accordance with this resolution shall be conducted at the sole cost, risk and expense of the individual. The Board of Commissioners, Marion County, Kansas accepts no responsibility or liability with respect to any burning. Individuals should adopt appropriate safety measures as are dictated by each specific situation.

In witness whereof, the Board of Commissioners, Marion County, Kansas adopt this above resolution this 29 day of December, 2017.

BOARD OF COUNTY COMMISSIONERS
OF MARION COUNTY, KANSAS



Randy Dallke
Randy Dallke, Chairman

Dianne R. Novak
Dianne R. Novak, Member

Kent Becker
Kent Becker, Member

ATTEST:

Tina D. Spencer
Tina D. Spencer, Marion County Clerk