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NOV 27 2006

Wabaunsee County Clerk's Office  
115 Kansas Alma, Kansas 66401

RESOLUTION NO. 2006 - 20

**A RESOLUTION ESTABLISHING REGULATIONS, REQUIRED PROCEDURES AND PENALTIES FOR AGRICULTURAL OPEN BURNING AND RESCINDING PRIOR RESOLUTION 2006-3.**

**WHEREAS**, Wabaunsee County, Kansas, is a county municipal government with the power of home rule pursuant to K.S.A. 19-101 et seq.;

**WHEREAS**, the State of Kansas through administrative regulations, has ruled that the regulation of open burning in a rural area is the responsibility of local governments;

**WHEREAS**, agricultural open burning is a common and prudent land management practice within this county; and

**WHEREAS**, agricultural open burning can present risk of harm to neighboring lands, neighboring residents and users of public roads.

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF WABAUNSEE COUNTY:

**SECTION ONE: BURN PERMITS REQUIRED**

1. Agricultural open burning, defined as open burning of vegetations such as grass, woody species, crop residue and other dry plant growth for the purpose of crop, range, pasture, wildlife or watershed management, shall be conducted only under the following conditions which meet or exceed K.A.R. 28-19-648,

(A) The person conducting the burn shall apply for and receive a burn permit from the Emergency Management Director. Burn Permits are non

transferable and are automatically renewable unless revoked or amended to an annual permit by the Emergency Management Director.

(B) The person conducting the burn shall notify the Wabaunsee County Sheriff's Dispatcher at 785-765-3323 or 1- 877-260-1902 before the burning begins of their burn permit number, the intent to burn, the location of the burn, estimated time of the burn, any effected roadways, and the name and phone number of the responsible party conducting the said burn. The Wabaunsee County Sheriff's Office is considered the local fire authority.

(C) A person shall not conduct a burn that creates a traffic hazard. If conditions exist that may result in smoke blowing toward or settling over a public roadway, the person conducting the burn shall give adequate notification to the Kansas Highway Patrol, the Wabaunsee County Sheriff's Office, and any other appropriate state or local traffic control authorities before burning.

(D) A person shall not conduct a burn that creates an airport safety hazard. If smoke may effect visibility at an airport, the person conducting the burn shall give adequate notification to the appropriate airport authorities before burning.

(E) The person conducting the burn shall insure that the burning is supervised until the fire is extinguished.

2. Agricultural open burning is strongly discouraged if the surface wind speed is greater than 15 miles per hour or is forecasted at the National Weather Service in Topeka, Kansas (785 234-2592) to be greater than 15 miles

per hour anytime during planned burn. Burning at wind speeds at or greater than this is not considered safe.

3. The Wabaunsee County Emergency Manager shall have the authority to issue temporary orders banning all open burning within Wabaunsee County at their discretion for no more than seven (7) days, if in their reasonable opinion the public safety would be served thereby. Such bans shall be in place from the time the Emergency Manager notifies the Wabaunsee County Sheriff's Office Dispatch and the county fire departments of the ban and shall remain in effect until rescinded in like manner. Further extension of said ban will require action by the Board of County Commissioners. Intentional open burning during a ban is a violation of this resolution.

4. It shall be prima facie evidence that the person who owns or controls property on which open burning occurs has caused or permitted the open burning.

## **SECTION TWO: EXEMPTIONS REGARDING REQUIRED BURN PERMITS**

A. Permits shall not be required for open fires set for cooking or ceremonial purposes if the sites of such fires are on public or private land used for recreational purposes.

B. Permits shall not be required for fires set within enclosed containers used for trash disposal as long as the materials burned therein are neither hazardous nor toxic and conform to those state regulations that regulate air quality control.

### SECTION THREE: UNLAWFUL ACTS

It shall be unlawful for any person to do any of the following:

- (a) violate any provision of this resolution.
- (b) violate any provision of an approval issued under this resolution.
- (c) knowingly make any false material statement, representation or certification in any request, application, record, report, approval or other document filed, maintained or used for purposes of compliance with this resolution. All information required to be given the Department under any of the provisions of this resolution is deemed to be material for the purposes of this section.

### SECTION FOUR: CRIMINAL PENALTIES

- (a) Any violation hereunder is a class C nonperson misdemeanor.
- (b) In the case of a continuing violation, every day such violation continues shall be deemed a separate violation.
- (e) Nothing in this resolution shall be construed to abridge, limit or otherwise impair the right of any person to damages or other relief on account of injury to persons or property and to maintain any action or other appropriate proceeding therefore.

**BE IT FURTHER RESOLVED** that the previous resolution enacted regarding agricultural burning (**Resolution 2006-3**) is to be rescinded.

**BE IT FURTHER RESOLVED** that this resolution shall be effective upon publication in the *Wabaunsee County Signal Enterprise*.

**ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS** of Wabaunsee County, Kansas this 27 day of November, 2006.

*Ervan Stuewe*

Ervan Stuewe, Chairman

*Maurice Gleason*

Maurice Gleason, Commissioner

*Rodney Allen*

Rodney Allen, Commissioner



*Jennifer A. Savage*

Jennifer A. Savage, County Clerk