

RESOLUTION NO. 23-3

**MITCHELL COUNTY, KANSAS
BOARD OF COMMISSIONERS**

**A RESOLUTION TO CONTROL BURNING WITHIN BOUNDARIES OF
MITCHELL COUNTY, KANSAS**

WHEREAS, Mitchell County, Kansas, is a county corporation with the power of home rule, pursuant to K.S.A. 19-101a; and,

WHEREAS, Mitchell County has previously adopted regulations concerning controlled burn permits and these regulations have presented additional issues of responsibility and restitution to consider and have the County should revise its burning regulations to effectively deal with these concerns.

IT IS THE FINDING OF THE BOARD OF COUNTY COMMISSIONERS OF MITCHELL COUNTY, KANSAS that, in the interest of public safety, and considering the periodic and seasonal hot, dry, windy weather conditions that may create an extreme fire hazard in the grassland and cropland of Mitchell County, and, such fires pose a risk to lives and property if not properly controlled.

IT IS HEREBY RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MITCHELL COUNTY, KANSAS that the following Resolution is hereby adopted, that all other resolutions relating to controlled burning are hereby repealed, and that this Resolution shall take effect upon publication in the official County Newspaper.

SECTION I: The following acts are prohibited within the boundaries of Mitchell County, Kansas:

1. Burning of grass, leaves, crops, crop residue, weeds, trash, debris, structures, fields, fencerows, ravines or wild lands, except controlled burning after obtaining a burn permit as hereinafter set forth.
2. Knowingly making any false material statement or representation (verbal or written) in any request, record, report, or application maintained or used for purposes of compliance with this resolution. All information required to be given in compliance with this Resolution is deemed to be a material.

SECTION II: Any person desiring to do controlled burning of grass, leaves, crops, crop residue, weeds, trash, debris, structures, fields, fencerows, ravines or wild lands, shall make application for a burn permit on a form to be furnished by the Mitchell County Communications Center (785-738-3523). The application's contents shall include, but is not limited to the following:

1. The 911 Location of the burn
2. how many acres
3. the owner of the property
4. the tenant of the property (if any)
5. the substance being burned
6. The name of the person responsible for the controlled burn operation.

The application for a controlled burn permit shall be made to the Mitchell County Communications Center (785-738- 3523), who will notify the Fire Chief, or his designee, having jurisdiction over the area where the burning will take place. The Fire Chief, or his designee, shall notify the Mitchell County Communications Center of the impending controlled burn, prior to the controlled burn taking place. In all cases, the Fire Chief, or his designee, shall have jurisdiction over the controlled burn.

SECTION III: Controlled Burn Permits will be issued under the following criteria:

1. The hours of burning will be specified and the fire shall be set with one hour of the time designated for the commencement of the controlled burn.
2. The person responsible must be at the scene until the fire is extinguished.
3. Wind speed shall not exceed (15) miles per hour.
4. An adequate fireguard (cleared strip) completely encircling the burn area. This fireguard shall be of sufficient size as to prevent damage to adjacent properties.
5. Any Rural Fire Chief, at his/her discretion, may impose a "Burn Ban" within their jurisdiction. This may be as a result of general moisture conditions, temperature conditions, or other factors he/she may deem necessary.
6. When calling a controlled burn in, if the relative humidity is below 30%, or a red flag warning has been posted for Mitchell County by the Hastings National Weather Service, the fire chief or his designee can refuse to allow you to burn.

7. When calling in a controlled burn in, if the burn is in the Barnard or Hunter fire district, the call will still be made to the Mitchell County Communications Center (785-738-3523), of who is burning, what they are burning, location of the burn, the owner of the property, the tenant of the property (if any), the substance being burned, and the name of the person responsible for the controlled burn operation. The controlled burn will be announced on the Mitchell County frequencies. After you complete this you will be asked to call Lincoln County as the Barnard and Hunter fire districts are paged out by Lincoln County. Lincoln County Communications Center contact number is 785-524-4479.
8. Exceptions:
 - a. Tree stumps and logs which can burn for several days and where the fire is unlikely to spread and typically occurs in the winter months may not require personnel at the scene after the blaze portion of the fire has concluded if wind and other safety factors would not warrant a presence. Notification per **Section II** is still required.
 - b. Trash, (Burn Barrels) shall have a cover of screen or mesh so as to prevent or lessen the likelihood of embers escaping and starting adjacent areas on fire. The overall condition of the Burn Barrel itself shall be such that it contains the fire within, not allowing embers to fall on the ground. A permit is not required but non-compliance with afore mentioned conditions may constitute a Class A Misdemeanor under **Section V** of this Resolution.
 - c. Should someone seek additional knowledge of what the criteria is to conduct a controlled burn you can seek information from the District Biologist, Brandon Tritsch at email Brandon.Tritsch@ks.gov. Should you have questions contact should be done prior to the day of the controlled burn, and just because you made contact doesn't give you access to start the controlled burn. You must still communicate with the Mitchell County Communications Center at 785-738-3523.

SECTION IV: Any Fire Chief, or his designee, shall have the authority to stop any open fire burning as deemed necessary in the Fire Chief or his designee's sole discretion.

SECTION V: A violation of this Resolution is a Class A Misdemeanor and any person convicted of a violation of this Resolution shall be punished as provided by law with the ticket being written by the Mitchell County Sheriff's Office as requested by the Fire Chief, or designee of the responding fire district. In addition, thereto, a violator shall be responsible for the cost of equipment and personnel responding to the fire. The cost shall be \$250 per fire truck per hour responding and \$20 per hour per fire personnel responding.

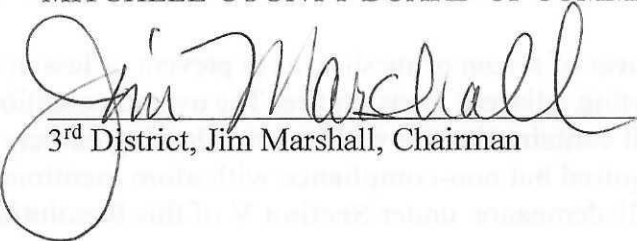
SECTION VI: The Fire Chief, or his designee, shall provide an itemized statement to the County Clerk of the amount to be reimbursed to the County; the County Clerk shall immediately notify in writing the landowner or landowners on whose land such open burning occurred with an itemized statement of the costs thereof, and stating that unless such amount is paid within thirty (30) days from the date of the notice, that the amount shall become a lien upon their real estate. If such costs are not paid within 30 days they shall be assessed against the property of the landowner; the County Clerk shall extend the same on the tax roll; and the Costs shall be collected by the County Treasurer and paid to the County as other real estate taxes are collected and paid.

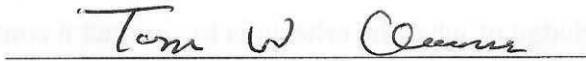
SECTION VII: Nothing in this resolution shall be construed to abridge, limit or otherwise impair the right of any person to damages or other relief on account of injury to persons or property and to maintain any action or other appropriate proceeding therefore.

This Resolution shall be effective on the date of its passage and after its publication in the newspapers in Mitchell County and shall remain in effect until rescinded.

Adopted by the Board of County Commissioners, Mitchell County, Kansas, this 2nd day of October, 2023.

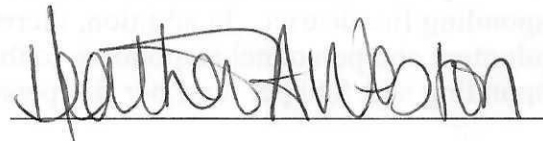
MITCHELL COUNTY BOARD OF COMMISSIONERS


3rd District, Jim Marshall, Chairman


1st District, Tom Claussen


2nd District, Mike Cooper

Attest:



Mitchell County Clerk, Heather Weston

