CHARTER RESOLUTION NO. 12

A CHARTER RESOLUTION ESTABLISHING REGULATIONS AND PENALTIES FOR OPEN BURNING IN SEWARD COUNTY, KANSAS

WHEREAS, the Board of County Commissioners of Seward County, Kansas, have determined that the practice of using, attending and maintaining an open fire, crop fire or any other open burning in Seward County has the potential of creating substantial loss to property and life; and

WHEREAS, the Board of County Commissioners or Seward County, Kansas desire to provide for a strict penalty for violations of open burning including any public open burning or agricultural burning in Seward County which does not comply with all notice requirements and other burning requirements as provided by Kansas statute or regulation of the Kansas Department of Health and Environment; and

WHEREAS, the Board of County Commissioners of Seward County, Kansas pursuant to K.S.A. 19-101(b) hereby enact the following prohibitions and penalties hereinafter set forth in this Resolution finding that the same does not conflict with existing state law uniform to all counties and enhances the penalties provided by law.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF SEWARD COUNTY, KANSAS AS FOLLOWS:

SECTION 1. Seward County hereby adopts and incorporates by reference all Kansas Statutes and regulations and rules issued by the Kansas Department of Environment and the State Fire Marshall's office governing open burning, agricultural burning and related activities. All individuals conducting any open burning in Seward County, Kansas shall be responsible for complying with said Statutes, rules and regulations.

SECTION 2. Open burning of vegetation such as grass, woody species, crop residue and

other dry plant growth for the purpose of crop, range, pasture, wildlife or water shed management shall be exempt from the prohibition on open burning as provided by Kansas law and regulation so long as the following conditions are met:

a. The person conducting the burn shall notify the Seward County Fire Department ("SCFD")of his or her intent to burn. This notification shall include specific information regarding the area to be burned and the nature of the burn. A permit will be issued by the Seward County Fire Department authorizing the burn so long as the following conditions are met.

1. No permit will be authorized for burning on overcast or foggy days.

2. The wind speed, as determined by the SCFD must be below fifteen (15) miles per hour.

3. The burn must be completely extinguished before sundown and must be fully supervised at all times.

4. No person shall conduct a burn that creates any traffic hazard or obstruction. If conditions exist that may result in smoke obstructing a public roadway, the person conducting the burn shall give immediate notification to the Highway Patrol, Sheriff's Department or other appropriate state or local traffic control authority before burning.

5. A person shall not conduct a burn that creates any airport safety hazard.

6. Prior to obtaining a burn permit, SCFD may require the applicant to disk a 15 feet wide fire guard barrier around the area to be burned.

7. SCFD may require that County Road Department graders and/or fire trucks be available for standby with sufficient notice as a condition of granting a burn permit.

8. No burn permits will be issued when the fire index rating is very high or

extreme, unless, in the discretion of SCFD, exceptional circumstances are shown to establish that such burn can be carried out safely. In such circumstances, SCFD may require that specific precautions be implemented as a condition of granting the permit.

. SECTION 3. It shall be prima facia evidence that the person who owns or controls property on which open burning occurs has caused or permitted said open burning.

SECTION 4. All Kansas Statutes, Fire Marshall rules and regulations and the regulations of the Kansas Department of Health and Environment not in conflict herewith shall be enforceable under the penalty section of this Resolution together with the prohibition set out herein.

SECTION 5. **PENALTY** Any person who violates any provision of this Resolution or the rules and regulations issued by the State Fire Marshall's office or the Kansas Department of Health and Environment, shall be guilty of a class C misdemeanor and such person convicted of said violation shall be punished as provided by law for a class C misdemeanor. The penalty for such misdemeanor violation shall be fixed by the Court and shall consist of a fine not exceeding the sum of $500.00. All prosecutions of violations of this Resolution shall be handled by Seward County Counsel.

SECTION 6. This Resolution supersedes and repeals Charter Resolution 10 (CR 97-02).

SECTION 7. This Charter Resolution shall be published once each week for two consecutive weeks in the official county newspaper. This Charter Resolution shall take effect 60 days after final publication unless a petition signed by a number of electors in Seward County equal to not less than 2% of the number of electors who voted in the last November election or 100 electors, whichever is greater, shall be filed in the office of the county election officer demanding that such Resolution be submitted to a vote of the electors. An election, if called, shall be called

within 30 days and held within 90 days after filing the petition with the county election officer. The Board of County Commissioners shall, by Resolution, call the election and fix the date, which Resolution shall be published once each week for three consecutive weeks in the official county newspaper.

SECTION 7. This Charter Resolution shall be recorded by the Seward County Clerk in a book maintained for that purpose.

BY THE BOARD OF COUNTY COMMISSIONERS, SEWARD COUNTY, KANSAS.

Board of County Commissioners
Seward County, Kansas

Max Louderback, Chairman

Randy Malin, Commissioner

(SEAL)

Patsy Boles, Commissioner

Shannon Francis, Commissioner

Jack Dufield, Commissioner

ATTEST:

Stacia Long, Clerk
Seward County, Kansas
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