BOARD OF COUNTY COMMISSIONERS OF DOUGLAS COUNTY, KANSAS

MONDAY, MAY 19, 2003

9:00 A.M.

-Convene
-Pledge of Allegiance

CONSENT AGENDA

(1) (a) Consider approval of Commission Orders

REGULAR AGENDA

(2) Planning Items:

(a) SP-04-23-03: Spec Warehouse – First Management, a site plan for the development of an 80' X 120' industrial warehouse building with an outdoor storage area, located at Maple Grove North No. 3, Lot 3, at the end of an industrial cul-de-sac accessed from Highway 24/59. Submitted by Paul Werner Architects, agent for First Management, property owner of record. (Paul Patterson)

(b) SP-04-22-03: Kaw Valley Motors, a site plan for documentation of existing conditions for commercial building located at 1787 E 1450 Road as an existing non conforming use. Submitted by Kevin Raasch, applicant, Kaw Valley Metals, Inc. LLC., property owner of record. (Sandra Day)

(3) Consider approval of open burn regulations proposal (Douglas County Fire Chiefs Association)

(4) Discussion of nursing program for the school district

(5) Other Business
- (a) Consider approval of Accounts Payable (if necessary)
- (b) Appointments
- (c) Miscellaneous
- (d) Public Comment

(6) Adjourn

WEDNESDAY, MAY 21, 2003

6:35 P.M.

-Convene
-Pledge of Allegiance

CONSENT AGENDA

(1) (a) Consider approval of Commission Orders

REGULAR AGENDA

(2) Planning item: CUP-12-16-02: Conditional Use Permit request for Eudora Quarry #68. The property is generally described as being located at the northwest corner of N 1200 Road and E 2400 Road. Requested by N.R. Hamm Quarry, Inc., for Katherine L. Neis, property owner of record) (Brian Pedrotti)

(3) Discussion of Mailbox Installations and Roadside Safety Impacts with Traffic Safety Advisory Committee

(4) Other Business
- (a) Consider approval of Accounts Payable (if necessary)
- (b) Appointments
- (c) Miscellaneous
- (d) Public Comment

(5) Adjourn

MONDAY, MAY 26, 2003

-Memorial Day
-No Commission Meeting

WEDNESDAY, MAY 28, 2003

-No Commission Meeting

MONDAY, JUNE 2, 2003

-Light Agenda

WEDNESDAY, JUNE 4, 2003

-No Commission Meeting

MONDAY, JUNE 9, 2003

-No Commission Meeting

WEDNESDAY, JUNE 11, 2003

-No Commission Meeting

MONDAY, JUNE 16, 2003

-Light Agenda or no meeting

WEDNESDAY, JUNE 18, 2003

5:30 P.M.
-Rededication of Judicial & Law Enforcement Center and Youth Services

MONDAY, JULY 14, 2003
-Light agenda or no meeting

WEDNESDAY, JULY 16, 2003
-Light agenda or no meeting

MONDAY, JULY 21, 2003
-No Commission Meeting

WEDNESDAY, JULY 23, 2003
-No Commission Meeting

MONDAY, JULY 28, 2003
-Light agenda or no meeting

WEDNESDAY, JULY 30, 2003
-Light agenda or no meeting

(2)(a)

SITE PLAN REVIEW
May 19, 2003

A. SUMMARY

SP-04-23-03: Spec. Warehouse – First Management, a site plan for the development of an 80' x 120' industrial warehouse building with an outdoor storage area, located at Maple Grove North No. 3, Lot 3, at the end of an industrial cul-de-sac accessed from Highway 24/59. Submitted by Paul Werner Architects, agent for First Management, property owner of record.

B. GENERAL INFORMATION

Current Zoning and Land Use:	I-2 (Light Industrial District) – Douglas County; undeveloped.
Surrounding Zoning and Land Use:	RS-A (Single-Family Residence Agriculture District) to the north – City of Lawrence; single-family residence.
	A (Agricultural District) to the east – Douglas County; agricultural use.
	RS-1 (Single-Family Residence District) to the south – City of Lawrence; agricultural use.
	I-2 (Light Industrial District) to the west – Douglas County; undeveloped, Lot 4 of A Final Plat of Maple Grove North No. 3.

Site Summary:

Number of Lots:	1
Total Site Area:	4.448 acres
Proposed Building:	9,600 SF Ground level, 2,000 SF Mezzanine
Outdoor Storage Area:	Approx. 100' x 248'
Off-Street Parking Required:	1 space per 2 employees on maximum working shift, plus space for storage of trucks or other vehicles used in connection with the business or industry.
Off-Street Parking Provided:	35 parking spaces (including two ADA spaces)

Staff Recommendation: Planning Staff recommends approval of the proposed site plan subject to the following conditions:

1. Approval of a septic system construction permit prior to release of the site plan for building permits. Any approved septic fields shall be shown on the site plan and may not encroach on driveway, parking, storage areas, or utility easements.

2. Provide a note on the face of the site plan that indicates:

   a) The use of the property shall not interfere with the operation of the Lawrence Municipal Airport per Section 20-1106 of the Lawrence Zoning Ordinance.

   b) All exterior lighting will need to be shielded down so as not to result in glare to pilots using the nearby airport.

3. The applicant will need to obtain a floodplain development permit from the Douglas County Zoning & Codes Division, prior to any alteration, encroachment or substantial improvement to the existing property per Douglas County Code Article 28.

Review Comments from Other Departments/Agencies

County Public Works: No Comments.

County Zoning & Codes Division No comment received.

Health Department:

1. The applicant will need to contact the Health Department concerning preliminary evaluations needed prior to the issuance of a septic system permit.

Natural Resources Conservation District: No comment received.

Jefferson County RWD #13: No comment received.

Grant Township: No comment received.

Fire:

1. Fire hydrant recommended when in the city. (Owner has been made aware of recommendation)

KCP & L: No comment received.

Aquila, Inc.: No comment received.

Southwestern Bell:	No Comments.
Douglas County – Kaw Drainage District:	No comment received.
KDOT:	No comment received.

C. STAFF REVIEW

The applicant proposes to develop a speculative 80' x 120' warehouse building in an I-2 (Light Industrial) zoning district. The existing 4.448 acre property is vacant and is described as Maple Grove North, Lot 3, a county plat located between two pieces of incorporated (City of Lawrence) land.

Access to the lot is from the end of an existing cul-de-sac located on the east side of Highway 24/59, approximately 600' north of Highway 24/40 (Just north of the Maple Grove Cemetery).

County zoning of the property is I-2 (Light Industrial) District, which is intended primarily for light manufacturing, fabricating, warehousing, and wholesale distributing as permitted uses.

FUTURE USE

This is a speculative industrial warehouse building with a ground floor area of 9,600 square feet and a 2nd floor mezzanine of 2,000 square feet. The site plan also shows an outside storage area (approximately 100' x 248') developed with a proposed ground cover of 4" gravel and secured with a 6' chain link fence.

The site plan states the use of the property to be contractor's shop and storage yard. If other I-2 (Light Industrial) permitted uses are proposed, parking may need to be further evaluated.

FLOODPLAIN

Portions of Lots 2-5 of the Final Plat of North Maple No. 3 are located within the 100 year floodplain as shown on the adopted Federal Emergency Management Administration's floodplain map that became effective on November 7, 2001. Lot 3 is entirely within the Flood Zone AE, base flood elevations determined, special flood hazard areas inundated by 100 year flood. The applicant will need to obtain a floodplain development permit from the Douglas County Zoning & Codes Division, prior to any alteration, encroachment or substantial improvement to the existing property per Douglas County Code Article 28.

The site plan map notes the 100 year floodplain base elevation, as set on the FEMA map, is 823.9 feet for this area. The county regulations require development to be elevated a minimum of one foot above the base flood elevation. The site plan indicates a recommended elevation that is two feet above the base flood (site plan notes the minimum floor elevation of 824.9 feet, and the suggested floor elevation of 825.9 feet).

SEPTIC SYSTEM

The applicant has indicated the owner will provide a septic system with the proposed site plan. A septic system construction permit must be approved by the Douglas County Health Department

prior to release of the site plan for building permits, and the location of the approved septic field must be shown on the site plan. No portion of the septic field should overlap a driveway, paving surface, or utility easement.

Notes regarding future connection to the city sanitary sewer systems as required on the final plat are provided on the face of the site plan.

ACCESS

This property is accessed at the end of a privately built and privately maintained cul-de-sac, which is located within a 70' wide access/utility easement as approved on the Final Plat of Maple Grove North No. 3. A note regarding the construction and maintenance of the shared drive as required on the final plat is provided on the face of the site plan.

BUILDING SETBACK

In an I-2 (Light Industrial) zoning district, the required setbacks are: 25' front yard, 10' side yard, and 20' rear yard. The proposed building meets the minimum building setbacks for this property.

AIR SPACE CONTROL AREA DISTRICT

The property is located in close proximity to the Lawrence Municipal Airport and is within the air space control area district. Per Section 20-1106 of the Lawrence Zoning Ordinance, no use shall be made of land within any Air Space Control Area District which:

(a) Creates electrical interference with radio communications between the airport and aircraft including radio and television transmitting towers or studios, and large radiation or x-ray equipment.
(b) Includes above ground storage of petroleum or any other explosive material.
(c) Emits smoke or odor.
(d) Contains lights or signal which may be confused with airport navigational lights.
(e) Results in glare to pilots approaching, leaving or circling the airport or which impairs visibility in the district.
(f) Provides private airfields or runways for the use of aircraft other than those used in the principal airport in the district.
(g) Otherwise endangers the landing, taking-off, or maneuvering of aircraft.

Section 20-1110 Conflicting Regulations, of the Lawrence Zoning Ordinance, states:

> In the event of conflict between the Air Space Control Area District regulations and any other regulations applicable to the same area, whether the conflict be with respect to the height of structures or trees, use of land, or any other matter, and whether such other regulations were adopted by the City of Lawrence or any other unit of local government, the more stringent limitation or requirements as to airport hazards shall govern and prevail.

A condition should be required that the use of the property shall not interfere with the operation of the Lawrence Municipal Airport per Section 20-1106 of the Lawrence Zoning Ordinance.

All exterior lighting will need to be shielded down so as not to result in glare to pilots using the nearby airport.

(2)(b)

SITE PLAN REVIEW
May 19, 2003

A. SUMMARY

SP-04-22-03: Kaw Valley Motors, a site plan for documentation of existing conditions for commercial building located at 1787 E. 1450 Road as an existing non conforming use. Submitted by Kevin Raasch applicant, Kaw Valley Metals Inc. LLC. property owner of record.

B. GENERAL INFORMATION

Current Zoning and Land Use:	I-2 (Light Industrial District) existing commercial property including multiple commercial buildings.
Surrounding Zoning and Land Use:	I-2 (Light Industrial District) to the north, existing county industrial property. M-2 (General Industrial District) to the south, existing city industrial property. B-2 (General Business District), RS-1 (Single-Family Residence District), and M-2 (General Industrial District) to the east. Existing mixed use industrial area including county commercial outside of the incorporated city limits.
Site Summary:	
Legal Description:	Unplatted, See site plan for legal
Site Size:	12.290 acres
Existing Building:	
Building 1 1773-87 E. 1450 Rd.	2,800 SF (Accessory storage building to be demolished and reconstructed to 4800 SF in future phase)
Building 2 1773-85 E. 1450 Rd.	10,738 SF (Primary structure to be used in this activity)
Building 3 1773-83 E. 1450 Rd.	2,698 SF (Currently Vacant)
Building 4 1773- 81 E. 1450 Rd.	2,788 SF (Currently vacant)
Building 5 1773-79 E. 1450 Rd.	3,600 SF (Currently vacant)
Existing residence to be demolished	
Parking Required:	1 per 3 ~~employees~~ for "General Service or repair..." Applicant has indicated that there will be approximately 6 employees for current use.
Parking Provided:	6 parking spaces provided. Parking can and should be expanded for additional uses on site, but will require site plan approval.

Staff Recommendation:
Planning Staff recommends approval of the site plan subject to the following conditions:

1. Proof of demolition of the existing single-family home prior to release of the site plan for issuance of County building permits;
2. Provision of a revised site plan to correctly show the front building setback per staff approval;
3. Examination and approval of the existing septic system by the County Health Department prior to release of the site plan for issuance of building permits.

Review Comments from Other Departments/Agencies

County Public Works: No comments received

County Zoning:

1. Building must comply with county building codes for use and operation.
2. Existing house must be demolished per demolition order prior to occupancy of use.
3. Proposed change is primarily in operator of business. Applicant is not subject to abandonment of non-conforming use which would require a CUP as a new activity.
4. Front Building line is not accurately shown. 25' setback is required from base which is 60' back of center line of highway.

County Health Department: There was no mention on site plan about type of water supply or septic system if restrooms will be available in any of the buildings. (Condition of approval regarding septic system/ bottled water provided for drinking, two existing on site wells located within buildings 2 and 5)

KDOT: No comments received

Natural Resources Conservation District: No comments received

Grant Township: No comments received

City of Lawrence Fire Department: No comments

Westar Energy: No comments

Southwestern Bell: Provide a 10' UE along right-of-way with submission of a subdivision plat.

Kaw Drainage District: Drainage District has drainage facilities in place along the west and north sides of this tract. Care should be taken not to impede the flow of water which flows from as far south as the Kansas turnpike.

Planning Department:

1. Location map is misleading as to location, provide more detail to reference general location. *(Plan revised)*
2. Existing curb cuts seem to encroach into parking spaces at entryway. Revise parking lot to provide unencumbered parking stalls. *(Plan revised)*
3. Parking stalls do not appear to be well delineated. Providing striping, curb & gutter, bumper block or some other type of feature to define stalls. *(Plan revised)*
4. End-cap of stalls if not delineated will encroach into curb cuts. *(Plan revised)*
5. Provide total parking summary on site. *(Plan revised)*
6. Parking space at northeast corner of lot seems to encroach in right-of-way. *(Plan revised)*
7. Parking does not conform to any type of property line setback, parking lot to provide separation from right-of-way. *(existing condition of site)*
8. Provide minimum parking lot dimensions for parking stalls. *(Plan revised)*
9. How will north portion of parking lot function with one-way circulation? Recommend reorientation of parking to avoid cross flow traffic. *(Plan revised)*
10. Provide site summary for reference of existing conditions for all, building, pavement, total impervious, pervious, etc. Include separate schedule for all buildings as to total square footage and existing uses. *(Plan revised)*
11. Demonstrate that current uses are provided with adequate parking for each building/use existing on site. *(Plan revised)*
12. Aerial Photograph shows substantial vehicular parking on unimproved area. Site plan does not reflect this condition. Does applicant intend to use any exterior storage area? If so must be accurately shown. *(Plan revised)*
13. How is sanitary service provided for this lot (show lateral lines and septic tank as applicable)? This must be located on same parcel.(Applicant notified; Condition of approval)
14. Include note regarding total number of employees for all uses? *(Plan revised)*
15. What is water supply to this property? *(Plan revised)*

C. STAFF REVIEW

The intent and purpose of this site plan is to document the existing non-conforming uses of a developed site. The site is an existing industrial property and will be reused as a salvage/towing and storage facility under a new operator.

The subject property is located in Douglas County north of the Lawrence city limits along the west side of E. 1450 Road (Highway 59/40)[1]. The property abuts the Union Pacific Railroad right-of-way along the west property line. The property is an existing 12.29-acre industrial property that was not previously site planned. The subject property is located in Service Area 2 of the City's Urban Growth Area. The applicant is relocating a current salvage operation to an existing industrially zoned property. The purpose of this site plan is to document the existing commercial activity of the property. The site has previously been used for the same purpose and is known as an existing non conforming use. A building permit will be required for interior remodel of the primary structure (Building 2) thus necessitating a site plan for the property.

[1] *This street would also be known as N. 3rd Street extended upon annexation of this property into the City of Lawrence.*

Zoning and Existing Development

The subject property is zoned I-2 (Light Industrial District) which permits a variety of land uses. The site includes multiple structures and a large exterior storage area. The site has previously been used for an automotive related storage/salvage use. Ownership has changed for the business operation, but the property owner of record has not. Therefore, a Conditional Use Permit was determined by the County Zoning Code Administrator to not be necessary. Any significant changes in the future of this property and/or operation of use may result in a re-evaluation of that requirement.

The subject property is developed with several detached buildings some of which are vacant. The primary activity will occur in Buildings 1 and 2. Building 1 is an accessory/storage building. The applicant has stated that this building will be demolished and reconstructed in the future. It should be noted that as the property is encumbered by the regulatory floodplain, building additions and or reconstruction will require approval of a floodplain development permit. A building permit will be required from the County at that time unless otherwise annexed. Renovations and improvements to the site must meet minimum County Zoning and Building Code requirements. Additionally, there is an existing single-family residence located at the south end of the property. This structure has been designated unsafe and has be identified for demolition. Staff recommends, as a condition of approval, the single-family home be demolished prior to release of the site plan for issuance of county building permits. The applicant should be advised if additional uses are added to the property that intensify activities, annexation is a likely recommendation.

The subject property is also encumbered by regulatory floodplain. The rear portion of the lot will be used for exterior storage and must be screened. The site plan has been revised to note that no portion of the regulatory floodplain shall be used for exterior storage. Minimum fencing is recommended around the open storage area. Additionally any exterior parking areas must be screened from public view.

Staff noted in the review comments the building setback is not correctly shown on the face of the site plan. Staff recommends this element be revised per staff approval. The propose site plan does not alter the location of the pavement or buildings as they currently exist. Upon annexation into the City of Lawrence, the site would not comply with the minimum setback and city zoning regulations regarding parking lot design. This information is provided for reference. Any future site plan revisions to the site should include modifications that address zoning compliance.

Access

The subject property is accessed via four (4) existing curb cuts to E. 1450 Road (US Highway 59/40). The site plan does not propose to modify the existing entrances. Any changes to the driveways will require KDOT approval. The parking lot arrangement has been slightly revised to remove parking stalls that conflicted with the access way and driveways to the site. The site plan provides the minimum required parking for all uses (proposed as well as vacant buildings) located along the north side of Building 2. This parking is not centrally or conveniently located to the other buildings. Any reuse/redevelopment of other buildings should include revised parking to provide better access and convenience within the site as part of any future site plan changes.

Public Utilities

The site is not served by either municipal water or sanitary sewer services. Two water wells are located on site within Building 2 and Building 5. Municipal water is located along the east side of E. 1450 Road, but does not touch the subject property. Sanitary sewer is located at the south end of the subject property, but would require additional review and approval for extension of service. Additionally, the property would be required to be annexed prior to provision of municipal services. The site plan has been revised to show the estimated location of two existing on-site sewage disposal systems. The County Health Department indicated that the existing septic system will need to be evaluated and is a recommended condition of approval.

Summary and Conclusion

Staff recommends approval of the proposed site plan subject to the conditions discussed in the body of the staff report and included in the recommendation section of the report.

(3)

Douglas County Fire Chiefs Association

P.O. Box 3089
Lawrence, Kansas 66046

Office: 785-843-2226

DATE: April 21, 2003

TO: Douglas County Commission

FROM: Douglas County Fire Chief's Association

RE: Proposal for Open Burn Regulations

The Douglas County Fire Chief's Association is recommending the adoption of a Home Rule Resolution that establishes regulations for safe burning practices in Douglas County.

Why this is needed? As the un-incorporated areas have continued to become more populated, there has been an increase in the number of controlled burns that become out of control, and the number of instances of open burning being conducted when conditions were unsafe for burning. The increase in unsafe open burning results in an increase in the number of grass fire and out of control fire emergency calls for response on the rural volunteer fire departments. This proposal is not a recommendation for a burn permit system. This proposal establishes the criteria for when open burns can be conducted safely, and provides for penalty for open burn violations.

The approach that the majority of counties and cities in Kansas have taken is that of a burn permitting system that is administered by the sheriff's office or emergency communications center. It is our feeling of the Association that a permit system is more limiting than this proposal, and because of the staffing issues in the Douglas County Sheriff's Office and Douglas County Emergency Communications Center, a permit system cannot be effectively managed.

Kansas Department of Health & Environment has regulations for open burning procedures, and has the authority for enforcement of the regulations. Budget cuts have reduced the number of personnel in the field to enforce these regulations. Additionally, enforcement by KDHE is dependent on citizen complaints to KDHE during regular work hours. There is no other means to ensure compliance of KDHE regulations. This

proposal adopts all of the criteria established in the KDHE regulations and provides for local enforcement and penalty.

What does the proposal say? The proposal establishes the following:

- **Definition** of open burn and the allowable and prohibited items for household trash burns.
- **Agricultural Exemption** can be granted only in writing by the jurisdictional fire chief
- **Conditions for safe burning:**
  - Rangeland Fire Index must be at the low or moderate levels for safe burning to occur.
  - Notification of intent to burn to jurisdictional fire department and the Douglas County Emergency Communications Center
  - Time of day allowed for burns is from one hour after sunrise to no later than one half hour after sunset.
  - Wind speed for safe burning must be less than 12mph.
  - Supervision of fire from the time of ignition until fire is completely extinguished.
  - Fire suppression equipment must be available at the burn site and appropriate for the burn material and size of fire.
  - Traffic hazard – smoke from open burning which travels over a roadway requires notification to appropriate law enforcement agency.

How the proposal will work? When a resident of Douglas County desires to conduct an open burn, the citizen must verify the Rangeland Fire Index and wind speed, and notify the jurisdictional fire department and the Emergency Communications Center. The Rangeland Fire Index, current weather conditions, and time of sunrise and sunset are issued by the National Weather Service daily at 3:00am, and updated hourly. These are broadcast continually over NOAA Weather Radio. The information is also available on the National Weather Service website, and except for the Rangeland Fire Index, the information is on the Douglas County website. The same information is also available on local broadcast media stations, or by calling the National Weather Service Topeka office.

The county resident must then notify the jurisdictional fire department and the Emergency Communications Center and provide name, address and telephone of person responsible for the burn, and location address of the burn. Since most of the rural fire departments are unmanned, the notification to the Emergency Communications Center is essential. Then, if there is a 9-1-1 call reporting a burn, the dispatcher will be able to tell the responding fire department if they were notified of the intent to burn.

How do we inform the public? Each of the rural fire departments have annual fund raisers at which brochures on safe burning practices and regulations will be made available. The Chief's Association has a booth at the Douglas County Fair and will also provide information on the regulations. Efforts will be made to publicize the information

through the media outlets that serve Douglas County residents and information will be provided at township board meetings. Additionally, each department has volunteered to take the information brochures door to door in their township if necessary.

What are the costs and benefits?
There are no known costs to the County or the fire departments. A county resident who does not have access to local radio, television, a NOAA weather radio, or the Internet, may have to invest in some means to access the information, or will have to make a long distance call the Topeka National Weather Service office for the information.

A two-year history of Rangeland Fire Index indicates that if the regulations are adopted, Douglas County residents will not be able to burn 28 days of the year. While most of these days will occur in the spring and summer, this is still not a significant enough number to negatively impact any agricultural activities or resources. The majority of the open burning that is conducted annually is to remove debris and hedge rows. This activity is not necessary for agricultural production.

The benefit to the rural fire departments is an expected reduction in the number of out of control fires that were started when conditions were unsafe for burning. Since most open burning occurs in the spring, the proposal should also result in a reduction in grass fires.

The regulations will also decrease the need for future countywide burn bans issued by the Douglas County Commission. The Rangeland Fire Index is a composite of the temperature, wind speed, humidity, and moisture content of the soil and vegetation. Historically, burn bans occur because of a sustained lack of moisture in the soil and vegetation, and is reflected in the Rangeland Fire Index. Therefore, when the Rangeland Fire Index is at High or above, the moisture content is significantly low, and spontaneous combustion of dry materials is possible. Since this proposal uses the Rangeland Fire Index as a condition for safe burning, the need for burn bans is eliminated. The proposal provides a means to prohibit open burns when the moisture content of the soil and vegetation is extremely low.

Recommendation: That the Douglas County Commission adopts a Home Rule Resolution that establishes regulations for safe burning practices in Douglas County.

HOME RULE RESOLUTION NO. HR-_____

A HOME RULE RESOLUTION BY THE BOARD OF COUNTY COMMISSIONERS OF DOUGLAS COUNTY, KANSAS ENACTING COMPREHENSIVE OPEN BURNING REGULATIONS; SETTING FORTH PENALTIES FOR THE VIOLATION OF THE REGULATIONS REGARDING OPEN BURNING; AND REPEALING PRIOR RESOLUTIONS ON OPEN BURNING

WHEREAS, K.S.A. 19-101a, *et seq*, and amendments thereto, authorizes the Board of County Commissioners of Douglas County, Kansas (hereinafter the "Board") to transact all County business and perform all powers of local legislation and administration it deems appropriate; and

WHEREAS, It has been determined by the Board that there is a need to set out a comprehensive regulatory practice regarding trash burning and open burning in the unincorporated areas of Douglas County, Kansas; and

WHEREAS, the practice of open burning can be vital to the conduct of certain agricultural practices in the Douglas County; and

WHEREAS, it is in the best interest of the citizens of Douglas County that open burning is conducted in a safe manner and that proper fire protection be afforded during the conduct of such open burning.

NOW THEREFORE, be it resolved by the Board:

1. Burn Permits. The open burning of any fields, lots, garden plots, debris, fence rows or household trash shall be allowed without permit under the conditions set forth herein, except this Resolution shall not exempt any person from obtaining a permit when required by Kansas Administrative Regulations 28-19-645, 28-19-646, 28-19-647, or 28-19-648.

2. Trash Burns. "Household trash" is defined as that solid waste normally associated with the conduct of a household and does not include tires, metal debris, petroleum products, chemical product construction materials, or any materials prohibited for burning by the Secretary of the Department of Health and Environment of the State of Kansas. Household trash shall only be burned in a non-combustible container with a metal screen top containing holes no greater than ½ inch, and container must be 100' or more from any structure.

3. Conditions for Open Burning. Each open burning operation shall be subject to the following conditions:

   a. Burn Restrictions. Open burning for any reason shall not occur on those days when the National Weather Service Rangeland Fire Index is in the High, Very High or Extreme categories, or when the Board or the Governor of the State of Kansas impose a ban on burning.

b. Notification of intent to burn. Each person planning an open burn shall notify the Douglas County Emergency Communications Center and the jurisdictional Fire Chief prior to initiating the burn and provide the address location of the proposed burn, and the name, address and telephone number of the person responsible for the proposed burn.

c. Hours for safe burning. No person shall initiate open burning any sooner than one hour after sunrise and two hours before sunset. No material may be added to a fire after two hours before sunset. Fires must be extinguished no later than one half hour after sunset.

d. Wind speed. The wind speed during a burn shall not be greater than 12 M.P.H. at the time of the burning operation. Wind speed must be obtained before beginning burning operations by contacting the National Weather Service, the Douglas County Emergency Communications Center or any of the Lawrence Fire Department stations.

e. Supervision of fire. The responsible party shall supervise a burn from the time of ignition until the fire is completely extinguished.

f. Fire suppression equipment. Persons initiating an open burn must have adequate fire suppression equipment at the burn site to handle the type of burn material and size of burn.

g. Traffic Hazard. No person shall conduct a burn that creates a traffic hazard or other safety hazard, and fires shall not take place within 1,000 feet or a roadway or residential structure except as provided in Section 2. When smoke from the open burn travels over a roadway, the appropriate law enforcement agency must be notified of the potential hazard.

4. Agricultural Exemptions to Open Burning Conditions. Open burning operations conducted for the purpose of crop management may be exempted by the jurisdiction Fire Chief. The burning of vegetation to provide a firebreak in pasture or crop management may be allowed during evening or early morning hours in order to take advantage of calm wind conditions. Parties seeking exemption must contact the jurisdiction Fire Chief who may issue a temporary written exemption, provided that such burning is carried out in accordance with the following guidelines:

a. Such burning is not specifically prohibited by regulations of the Kansas Department of Health and Environment.

b. Such burning is not carried out on any one parcel of land for a time period aggregating more than five days during a calendar year.

c. Such burning complies with Section 3 unless specifically exempted in writing by the jurisdiction Fire Chief.

5. Responsible Party. For the purpose of any penalty to be assessed pursuant to any violation of this Resolution it shall be considered prima facie evidence that the person owning, occupying or controlling any premises upon which an open burn is being conducted voluntarily allowed said open burn to take place and is responsible for the burn.

6. Penalty. The violation of any of the provisions of this Resolution is hereby declared unlawful. Any person or persons responsible for any burn in violation of this Resolution shall be subject to the following penalties:

a. Each violation of the terms of this Resolution shall be deemed an unclassified misdemeanor and shall be subject to criminal prosecution resulting in imprisonment in the county jail and/or a fine set forth by Kansas statutes, determined as if the violation of this Resolution were the violation of Kansas statutes. In addition to any other method of initiating a criminal proceeding under applicable law, any law enforcement officer may initiate a criminal proceeding under this Resolution by making an offense report and serving a citation and notice to appear in court upon the alleged violator. The offense report shall be forwarded to the district attorney for prosecution

b. In addition, the County is authorized to seek a civil penalty against any person violating the terms of this Resolution in the sum of not less than $100.00 nor more than $1,000.00, plus any cost incurred by the County directly caused by any persons in violation of the terms of this Resolution.

7. Prior Resolutions. All prior resolutions relating to the conduct burning regulated by this Resolution are hereby repealed.

8. Effective Date. This is an ordinary home rule resolution and shall take effect and be in force from and after its publication once in the Official County newspaper.

IN WITNESS WHEREOF, the foregoing Resolution was adopted this _____ day of _____, 2003.

BOARD OF COUNTY COMMISSIONERS OF DOUGLAS COUNTY, KANSAS:

_____
Bob Johnson, Chair

_____
Jere McElhaney, Member

_____
Charles Jones, Member

ATTEST:

_____
Patty Jaimes, County Clerk