BEFORE THE BOARD OF COUNTY COMMISSIONERS OF COWLEY COUNTY, KANSAS

RESOLUTION

WHEREAS, the Board of County Commissioners of Cowley County, Kansas, in an effort to protect the safety of persons and property in the unincorporated territory of Cowley County, Kansas, find that a dangerous situation presently exists concerning the sale, distribution and useage of fireworks in the unincorporated territory of Cowley County, Kansas; and,

WHEREAS, the Board of County Commissioners deems it in the best interest of residents and their property lying in the unincorporated territory of Cowley County, Kansas, to regulate the sale, distribution and useage of fireworks;

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Cowley County, Kansas:

SECTION I. Unless otherwise clearly indicated by the context as used in this resolution:

1. Fireworks shall mean and include any combustible or explosive composition, or any substance or combination of substances, or device prepared for the purpose of producing a visible or an audible effect by combustion, explosion, deflagration or detonation, and shall include blank cartridges, toy pistols, toy cannons, toy canes, or toy guns in which explosives are used, firecrackers, torpedoes, skyrockets, bottle rockets, Roman candles, Daygo bombs, sparklers, or other devices of like construction and any devices containing any explosive or flammable compound, or any tablet or other device containing an explosive substance, except that the term "fireworks" shall not include any safety flares, paper caps containing not in excess of an average of twenty-five hundredths of a grain of explosive content per cap, and toy pistols, toy canes, toy guns or other devices for use of such caps, the sale and use of which shall be permitted at all times.

2. Sale at Wholesale shall mean all sales of fireworks within Cowley County to an individual, firm, partnership, corporation, or association regularly engaged in the business of selling fireworks at retail outside Cowley County.

3. Public display shall mean a fireworks display of aerial and/or ground display pieces.

4. Board shall mean the Board of County Commissioners of Cowley County and their duly authorized and designated representative.

5. Jurisdiction shall mean any city, municipality, county, township, school district, improvement district or benefit district incorporated or organized under the laws of Kansas.

6. Other organization shall mean any association of persons established and duly organized with an ongoing purpose and function. It shall not mean a family.

7. Competent operator shall mean a person so trained and experienced in the handling, use, and display of fireworks that he or she is recognized as experienced in the handling, use and display of fireworks.

8. Artisans in pursuit of their trade shall mean any competent operator who derives the primary source of his or her income from performing fireworks exhibitions and collecting fees for the viewing thereof by spectators.

SECTION II. MANUFACTURE, STORAGE, SALE, POSSESSION AND DISCHARGE.

1. No fireworks are to be possessed, stored, offered for sale, exposed for sale, sold at retail or used or exploded within the unincorporated areas of Cowley County other than under this Section.

2. The manufacture or assembly of fireworks within Cowley County is permitted in accordance with guidelines set by local, state, and federal regulations.

3. A manufacturer or wholesaler of fireworks may sell fireworks within Cowley County to a person who exhibits a current permit for a supervised public display granted by the Board. Such fireworks shall be used only at the supervised public display for which the permit is granted.

4. The Board shall have power to adopt reasonable rules and regulations for the granting of permits for supervised public displays of fireworks by a jurisdiction, fair association, amusement park or other organization or for the use of fireworks by an artisan in pursuit of his or her trade of firework exhibitions when such display occurs within the unincorporated areas of Cowley County. Every such use or display shall be handled by a competent operator approved by the Board and shall be of such character and so located, discharged or fired as in the opinion of the Board after proper investigation so as not to be hazardous to property or endanger any person. Every such permittee shall furnish a bond or certificate of insurance in an amount deemed adequate by the Board for the payment of all damages which may be caused either to a person or persons or to property by any reason of the permitted display, and arising from any acts of the permittee, his agents, employer, or subcontractors.

Applications for permits shall be made in writing at least ten (10) days in advance of the date of display. After approval of the operator by the Board and proper investigation as described in this subsection, such privilege shall be granted. No permit granted hereunder shall be transferable. Any fireworks that remain unfired after the display is concluded shall be immediately disposed of by the permittee's competent operator in a way safe for the particular types of fireworks remaining.

5. Persons, corporations, partnerships, or other entities engaged in the business of manufacture, storage and sale at wholesale of fireworks shall be permitted to possess, to store, to offer for bona fide wholesale sales any fireworks, provided that it shall be the duty of such person, corporation, partnership or other entity engaged in the business of manufacture, storage, or sale at wholesale of fireworks to ascertain with reasonable certainty that the purchaser of such fireworks is a bona fide purchaser at wholesale and is regularly engaged in the business of selling fireworks outside Cowley County. Such determination shall be ascertained after requiring and recording the name and address of the purchaser, proof of the purchaser's Kansas sales tax number and a list of outlets at which such fireworks will be sold at retail by the purchaser.

6. Any building or structure, permanent or temporary, regardless of type of construction or materials, before use or occupancy as a structure to store, to offer for sale at wholesale, to expose for sale at wholesale, or to sell at wholesale any fireworks in the unincorporated areas of Cowley County shall be inspected by the Board and a permit issued by the Board at least ten (10) days prior to such occupancy. It shall be unlawful for any person to use, utilize or occupy for the purposes enumerated hereinabove any structure, building or other appurtenance not so inspected by the Board pursuant to either this provision or its predecessor provision. Permits issued in accordance with this provision or its predecessor provision shall be valid for one (1) year from the date of issuance and shall be issued following the inspection of the premises by the Board and the payment by the owner or occupant thereof of a permit fee of $20.00.

7. Nothing in this Section shall be construed to prohibit, (a) the sale to or use by railroads or other transportation agencies of fireworks for signal purposes of illumination, (b) the sale or use of blank cartridges for a show or theatre, or for signal or ceremonial purposes in athletics or sports or for use by military organizations, (c) the sale or use of smoke bombs for use by plumbers in the course of their trade.

SECTION III. SEIZURE OF FIREWORKS. No stocks of fireworks stored, offered for sale, exposed for sale, sold or held in violation of this Section shall be seized from the owner except by an order or on a search warrant of a court of competent jurisdiction. Such court order may be enforced by the Board or their duly authorized deputies or by the Sheriff of Cowley County or his duly authorized deputies. The stocks of fireworks seized hereunder shall be held by the Sheriff of Cowley County and shall not be subject to replevin. The Sheriff of Cowley County shall hold such fireworks under seal in a safe place until final disposition of the charges against the owner, thereupon, the fireworks shall be disposed of by the Sheriff of Cowley County in accordance with the Court's order.

SECTION IV. PENALTY FOR VIOLATIONS. Any person, firm or corporation who shall be convicted in a court of competent jurisdiction for violating the provisions of this Section shall be deemed guilty of a Class C misdemeanor and in accordance with K.S.A. 1977 Supp. 21-4502 and K.S.A. 21-4503 shall be subject to a definite term of confinement in the county jail which shall be fixed by the court and shall not exceed one (1) month and under sentence to pay a fine not to exceed $500.00.

SECTION V. INVALIDITY OF PART. If any section, sentence, subdivision, clause or provision of this resolution or application thereof to any person, firm, corporation, partnership or other entity or circumstances is held invalid or unconstitutional in a court of competent jurisdiction, the remainder of the resolution and the application of the section, sentence, subdivision, clause or provision to other persons, firms, corporations, partnerships or entities not similarly situated or to other circumstances shall not be affected thereby.

This resolution shall take effect and be enforced from and after its publication in the official county paper.

DATED this 2nd day of September, 1980.

BOARD OF COUNTY COMMISSIONERS
OF COWLEY COUNTY, KANSAS

Marilyn J. Johnson

Marilyn J. Johnson

Scott Reiter

Scott Reiter

Marvin Hatfield

ATTEST:

Marjorie J. Williams
County Clerk