

**CITY OF MULBERRY
MULBERRY, KANSAS**

ORDINANCE 2008-03

AN ORDINANCE REGULATING THE BURNING OF TRASH, BRUSH, AND OTHER DEBRIS WITHIN THE CITY LIMITS OF THE CITY OF MULBERRY, KANSAS, AND PROVIDING PENALTIES THEREFORE.

WHEREAS, the Governing Body of the City of Mulberry, Kansas, has determined that it is necessary to restrict the burning of trash and other debris within the city limits of the City of Mulberry, Kansas, therefore.

Be it ordained by the governing body of the City of Mulberry, Kansas.

Section 1. The burning of any trash, wastepaper, rubbish, tree limbs, stumps, leaves or other waste materials within all areas if the city shall be done in accordance with the following guidelines:

- a. All materials to be burned shall be dry and free of matter that inhibits combustion.**
- b. It shall be unlawful to burn the following:**
 - 1. Household trash;**
 - 2. Wastepaper;**
 - 3. Rubbish; and**
 - 4. Any heavy, smoke-producing materials, including, but not limited to, tires, petroleum products, oil, composition shingles, tarpaper, including their use to ignite or accelerate a burn.**
- c. It shall be unlawful to burn, or allow a fire to continue to burn, at nighttime between sunset and sunrise without special permission from the mayor or fire chief.**
- d. No open burning of brush, leaves, stumps, or other materials shall be permitted when the surface wind speed is less than 5 miles per hour or greater than 15 miles per hour.**
- e. No open burning of brush, leaves, stumps, or other materials shall be permitted within 40 feet of any structure unless the owner or occupant of said structure has been notified prior to the burning.**
- f. The person conducting any burning shall insure that the burning is supervised at all times until extinguished and that the burning is performed under conditions necessary to prevent emissions which**
 - 1. may be injurious to human health, animal, or plant life, or property, or**
 - 2. may unreasonably interfere with the enjoyment of life or property. A fully charged hose or other device shall be present and available for immediate use at the site to**

control the fire should it extend to control the fire should it extend to undesired areas or property.

Section 2. The Governing Body of Mulberry, Kansas or the Mulberry fire chief hereby enacts a burn ban policy for the incorporated areas of the City as follows:

- a. Upon daily adopted motion, the Governing Body of Mulberry, Kansas or the Mulberry fire chief may place a burn ban on the incorporated areas in the city when dry weather conditions make fires more likely.
- b. The burn ban will become effective upon publication of a notice in the official City newspaper regarding the implementation of a burn ban, which notice shall set forth the penalties for violating said ban:
- c. The burn ban shall continue until rescinded by a duly adopted motion of the Governing Body of Mulberry, Kansas or the Mulberry fire chief.

Section 3. It shall be prima facie evidence that the person who owns or controls upon which burning occurs has caused or permitted the burning.

Section 4. A violation of this ordinance shall be deemed a Class C misdemeanor punishable and, upon conviction thereof, shall be fined a sum not exceeding \$500.00 for each violation or imprisoned, or both.

Section 5. If for any reason any section, subsection, sentence, position or part of this ordinance, or the application thereof to any person or circumstance is declared to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of this ordinance.

Section 6. All previous ordinances addressing burning regulations and/or burn bans, including, but not limited to Ordinance No. 231, Ordinance No. 98-4, and Ordinance No. 2007-02, are hereby repealed.

Section 7. This ordinance shall take effect and be in full force from and after the date of its adoption and publication in the official city newspaper.

PASSED BY the Council of the City of Mulberry, Kansas, and approved by the Mayor on this 14th day of October, 2008.

/s/ Randy Jones, Mayor

ATTEST:

**/s/ Janice L. Gilbert
City Clerk**