

## ORDINANCE NO. 3868-A

AN ORDINANCE AMENDING THE CITY OF MUSKOGEE CODE OF ORDINANCES CHAPTER 38, ENVIRONMENT, ARTICLE I, IN GENERAL; BY REPEALING SECTION 38-14, BURNING OF COMBUSTIBLE REFUSE AND TRASH; BY AMENDING CHAPTER 42, FIRE PREVENTION AND PROTECTION, ARTICLE I, IN GENERAL, BY ADDING SECTION 42-1, OPEN BURNING PROHIBITED, EXCEPTIONS, PERMIT REQUIRED; BY REPEALING ARTICLE III, FIRE SERVICES, SECTION 42-53, CONTRACTS FOR SERVICE AND BY PROVIDING FOR REPEALER, SEVERABILITY AND DECLARING AN EMERGENCY.

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MUSKOGEE, OKLAHHOMA, AS FOLLOWS:

### EMERGENCY ORDINANCE

Section 1. The City of Muskogee Code of Ordinances, Chapter 38, Environment, Article I, In General, Section 38-14, Burning of combustible refuse and trash, is hereby repealed.

Section 2. The City of Muskogee Code of Ordinances, Chapter 42, Fire Prevention and Protection, Article I, In General, is amended by adding Section 42-1, Open burning prohibited, permit required to read as follows:

#### Section 42-1, Open burning prohibited, exceptions, permit required

- (a) Open burning within the City of Muskogee shall be in accordance with the requirements and procedures set out in Section 307 of the International Fire Code as it now exists or may hereinafter be amended.
- (b) No person shall cause or permit open burning in any public or private place within the City of Muskogee outside of a building or structure without a valid permit to burn as provided by Section 307.2 of the International Fire Code as it now exists or may hereinafter be amended. Exception, no permit is required for fires purposely set for the instruction and training of firefighting personnel when authorized by the Fire Chief;
- (c) Application for a permit shall only be presented by and the permit issued only to the owner of the land upon which the fire is to be kindled or his designee. Said permit shall be in hand at the time of burning. The applicant shall complete and submit to the Fire Chief or his designee an application to be obtained from the Fire Chief or his designee. The applicant shall pay all application fees as set out in Appendix A of this code at the time of submitting the application. The application shall be submitted at least five (5) city business days prior to the scheduled burn. In the event that weather, rain or high winds, prevents the burn on the permitted day the burn may be rescheduled with the approval of the Fire Chief or his designee without additional cost unless the rescheduled day is more than 10 days following the permitted day in which event a new permit will be required.
- (d) The area in which the permitted burn is to be conducted must be inspected by the Muskogee Fire Chief or his designee prior to a permit being issued to determine compliance with Section 307.4 of the International Fire Code as it now exists or may hereinafter be amended.
- (e) Neither petroleum-based products, nor flammable liquids can be used to start the fire.

(f) The owner of the land on which open burning, bonfires, recreational fires or permitted fires are conducted, or his designee, shall constantly attend the fire until it is extinguished, §307.5 of the International Fire Code as it now exists or may hereinafter be amended. A minimum of one (1) portable fire extinguisher complying with Section 906 of the International Fire Code with a minimum 4-A rating or other approved on-site fire-extinguishing equipment, such as dirt, sand, water barrel, garden hose or water truck, shall be available for immediate utilization. A recreational and ceremonial fires is defined as a camp fires and other fires used solely for recreational purposes, ceremonial occasions, or non-commercial preparation of food.

(g) The Fire Chief or his designee is authorized to order the extinguishment any fire whether as allowed by subsection (b) of this section by either the permit holder or the fire department if open burning that creates or adds to a hazardous or objectionable condition.

(h) It shall be unlawful and an offense for any person to violate any provision of this Section. Any person convicted of violating this Section shall be punished as set out in Section 1-14 of Chapter 1 of this Code. Each day that any violation of this article occurs or continues shall constitute a separate offense and shall be punishable as a separate violation.

Section 3. The City of Muskogee Code of Ordinances, Chapter 42, Fire Prevention and Protection , Article III, Fire Services, Section 42-53. - Contracts for service, is hereby repealed.

Section 4. REPEALER. All other ordinances or parts of ordinances in direct conflict herewith are repealed to the extent of the conflict only.

Section 5. SEVERABILITY. Should any part section, subsection, sentence, provision, clause or phrase hereof be held invalid, void, or unconstitutional for any reason, such holding shall not render invalid, void, or unconstitutional any other section, subsection, sentence, provision, clause, or phrase of this ordinance, and the same are deemed severable for this purpose.

Section 6. EMERGENCY. This ordinance being designated to protect the public health, safety, and welfare of the inhabitants of the City of Muskogee, Oklahoma, and its passage being immediately necessary, an emergency is hereby declared to exist and by reason whereof this ordinance shall take effect immediately upon its passage, approval and publication as provided by law.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF MUSKOGEE,  
OKLAHOMA, THIS 14<sup>th</sup> DAY OF MARCH, 2011.

CITY OF MUSKOGEE

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JOHN TYLER HAMMONS, MAYOR

ATTEST:

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PAMELA S. BATES, CITY CLERK

(seal)

Approved as to form and legality this 14th day of March, 2011.

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JOHN H. VINCENT, CITY ATTORNEY

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