

(Published in the Mullinville Merchant Directory on the 21 day of March, 2024)

**ORDINANCE NO. 405**

**AN ORDINANCE ENACTING REGULATIONS FOR OPENING BURNING IN THE CITY OF HAVILAND, KANSAS, AND SETTING FORTH PENALTIES FOR VIOLATIONS OF THE REGULATIONS REGARDING OPEN BURNING; AND REPEALING ORDINANCE 299.**

**BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF HAVILAND, KANSAS:**

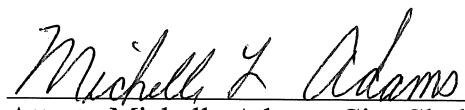
1. **General Prohibition on Open Burning:** Except for fires in permanent stoves, fireplaces, or barbeque grills on residential property or developed recreational sites, no person shall cause or permit the open burning of any wastes, structures, vegetation, or any other materials on any premises within the City of Haviland, Kansas, except as authorized herein.
2. **Exception to General Prohibition on Open Burning:** The following open burning operations shall be permitted within the City of Haviland, Kansas, but only if prior written authorization to conduct said burn is granted by the City of Haviland, Kansas, Fire Department Chief:
  - a. Open burning carried out on a residential premise containing five or less dwelling units and incidental to the normal habitation of the dwelling units;
  - b. Open burning for the purpose of crop, range, pasture, wildlife or watershed management in accordance with K.A.R. 28-19-648;
  - c. Open burning for which prior approval has been granted by the Kansas Department of Health and Environment pursuant to K.A.R. 28-19-647, including:
    - i. the use of safety flares for disposal of flammable gases;
    - ii. fires related to the training of government or industrial personnel in fire fighting procedures;
    - iii. fires set for the removal of dangerous or hazardous liquid materials;
    - iv. open burning of trees and brush from nonagricultural land clearing operations;
    - v. open burning of clean wood waste from construction projects carried out at the construction site.

3. **Authority to Conduct Burn:** The City of Haviland, Kansas, Fire Department Chief shall not authorize any open burning operation as permitted by Section 2 of this Ordinance during such times that open burning has been prohibited in any area containing the City of Haviland, Kansas, or the applicable portion thereof, by any applicable county, state or federal authority nor when such proposed burn is prohibited by applicable county, state or federal laws or regulations. The City of Haviland, Kansas, Fire Department Chief may decline to grant any person authorization to conduct any open burning operation, as permitted by Section 2 of this Ordinance, or to restrict or impose additional precautions for any such burn, or to order the burn be immediately terminated if the conditions or circumstance of any such burn or proposed burn warrants such denial or actions to ensure the health, safety, and welfare of persons or property.
4. **Supplementary to Existing Laws and Regulations:** This Resolutions shall not exempt any person from abiding by applicable county resolutions, state statutes, administrative regulations, federal statutes, or federal regulations including but not limited to: Kiowa County, Kansas Resolution 2022-6, Kansas Administrative Regulations 28-19-645, 28-19-645a, 28-19-646, 28-19-647, and 28-19-648, or from obtaining a permit when required by Kansas Administrative Regulations 28-19-645, 28-19-645a, 28-19-646, 28-19-647, and 28-19-648.
5. **Responsible Party:** For purposes of any penalty to be assessed pursuant to any violation of this Ordinance it shall be considered prima facie evidence that the person owning, occupying or controlling any premises upon which an Open Burn is initiated voluntarily allowed said Open Burn to take place and is responsible for the burn.
6. **Violations:** the violation of any of the provisions of this Ordinance is hereby declared unlawful. Except as otherwise provided for in this Ordinance any person or persons responsible for any burn in violation of this Ordinance shall be subject to the following penalties:
  - a. Each violation of the terms of this Ordinance by any person shall be deemed a misdemeanor, punishable with penalties for each separate offense by a term of incarceration not to exceed Thirty (30) days and/or a fine in an amount not to exceed Five-hundred Dollars (\$500).

- b. In addition to the penalties set out in Paragraph 5(a), any person or persons who violates the provisions of this Ordinance may be ordered to pay restitution for the fire units involved as follows: Two-hundred Dollars (\$200) per fire unit vehicle called to bring the fire under control per hour, and, any and all expenses associated with bringing the fire under control.
7. **Repeal of Prior Ordinances:** Ordinance 299 and all other ordinances or parts of ordinances enacted prior to this ordinance in conflict with this ordinance are hereby repealed.
8. **Effective Date:** This Ordinance shall take effect and be in force, from and after its publication in the official City newspaper.

Passed and adopted by the Governing Body of the City of Haviland this 13<sup>th</sup> day of March, 2024.

  
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Brad Lingafelter, Mayor

  
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Attest: Michelle Adams, City Clerk

