

ORDINANCE NO. 341

AN ORDINANCE RELATING TO CERTAIN PUBLIC UTILITIES OWNED AND OPERATED BY THE CITY OF WATHENA, KANSAS; DEFINING CERTAIN WORDS AND PHRASES; ESTABLISHING AND IMPOSING CERTAIN HEATING AND COOLING STANDARDS FOR CERTAIN NEW RESIDENTIAL DWELLINGS AND NEW COMMERCIAL BUILDINGS AND REQUIRING THE OWNERS OF SUCH STRUCTURES TO CERTIFY TO COMPLIANCE WITH SUCH STANDARDS PRECEDENT TO SECURING CERTAIN UTILITY CONNECTIONS AND SERVICES; FIXING THE FORM AND CONTENT OF THE CERTIFICATES AND SUPPORTING STATEMENTS HEREIN REQUIRED AND PROVIDING FOR THE FILING AND KEEPING THEREOF; PROVIDING FOR THE TERMINATION OF ANY PERMANENT UTILITY SERVICE NOT IN COMPLIANCE WITH THE CERTIFICATE OF QUALIFICATION THEREFOR AND PRESCRIBING A METHOD AND PROCEDURE FOR EFFECTING ANY SUCH TERMINATION OF SERVICE.

WHEREAS, under the provisions of Substitute for House Bill No. 2698 as enacted by the 1978 Session of the Kansas Legislature which became effective March 22, 1978, and the terms and provisions of that certain order entered pursuant thereto by The State Corporation Commission of the State of Kansas on March 31, 1978, in Docket No. 110,776-U, the City of Wathena, Kansas, is under a mandate to approve, enact and file tariffs and rules and regulations imposing certain restrictions on connections or attachments to certain of the City's City owned utility systems of certain residential, commercial or industrial structures with respect to heat loss standards and energy efficiency ratios for air-conditioners and heat pumps all as in the aforesaid Bill and Order and the General Rules and Regulations adopted pursuant thereto made and provided:

NOW, THEREFORE, BE IT ORDAINED by the Governing Body of the City of Wathena, Kansas:

SECTION 1. DEFINITIONS. In this ordinance, the following rules of construction and definitions shall apply:

- (a) "City" means the city of Wathena, Kansas.
- (b) "Shall" and "Will" are mandatory for performance.
- (c) "ASHRAE" means the American Society of Heating, Refrigerating and Air-conditioning Engineers, Inc., of New York, New York.
- (d) "BTUs" means British Thermal Units.
- (e) "EER" means Energy Efficiency Ratio which is the ratio of net cooling capacity in BTU/hr. to total electric input in watts.
- (f) "Heated finished living space", "heated areas" and "heated space" each mean that space within a structure which is provided with a positive heat supply having

a connected output capacity in excess of ten (10) BTU/hr. per square foot.

- (g) "New commercial building" means any building used to provide, at wholesale or retail, storage, services, supplies, goods or products to the public, other than a building used for the purpose of manufacturing raw material into a finished product, PROVIDED, HOWEVER, that this definition shall not apply to any such building the foundation for which has been completed prior to June 1, 1978, and PROVIDED FURTHER, that in case of a structure which is heated and/or cooled in only a portion thereof, then this definition shall apply only to the heated and/or cooled portion of such structure.
- (h) "New residential dwelling" means all new hotels, motels, apartment houses, lodging houses, private homes and other residential dwellings, including buildings of mixed occupancy, construction of which commences on or after the effective date of this ordinance, PROVIDED, HOWEVER, that this definition shall not be construed to apply to mobile homes, nor to any such new residential dwelling, the foundation for which has been completed prior to June 1, 1978, and PROVIDED FURTHER, that in case of a structure which is heated and/or cooled in only a portion thereof, then this definition shall apply only to the heated and/or cooled portion of such structure.
- (i) The word "owner" means any person, as herein defined, who holds all or any part of the legal title to and ownership of a residential dwelling or commercial building as herein defined.
- (j) The word "person" shall mean any individual, corporation, partnership, unincorporated association and other legal entity of every kind, name and description.
- (k) The words "city utility" mean the electric energy utility and system owned and operated by the city and, in addition, such words shall also mean and include the gas utility and system owned and operated by the city if, and when, at some future date, the city may assume ownership, control and operation of the existing gas utility and system for the city from the city's present franchisee, The Gas Service Co.

SECTION 2. NEW CITY UTILITY CONNECTIONS; CONDITIONS PRECEDENT TO. (a) Before connection or attachment of city utility service to a new residential dwelling or a new commercial building, the city utility shall require a certificate from the owner that the structure for which service is requested meets all of the applicable standards set forth in Section 3 below. If an architect or a contractor, or both, was employed in the design and construction of such new structure, then the certificate required from the owner hereunder shall include written supporting statements from such architect and/or contractor that said structure meets all of the applicable standards set forth in Section 3 below.

(b) Compliance with the requirements for certification set forth in subsection (a) above is required as a condition precedent to the installation and to the maintenance of permanent utility service. Failure to attain or maintain such certification or failure of the certified structure at any time to meet or exceed the standards set forth in the certificate for such structure will subject the owner to termination of utility service as provided in Section 5 below.

SECTION 3. STANDARDS IMPOSED. The following heating and cooling standards for new residential dwellings and new commercial buildings which utilize city utility services are hereby established and imposed:

- a. A new residential dwelling shall be equipped with storm windows and storm doors or other satisfactory window and door thermal treatment.
- b. Total heat loss, based on the ASHRAE Handbook of Fundamentals, of a new residential dwelling shall not exceed 35 BTU's per square foot per hour of floor area of heated finished living space at a design temperature differential of 80 degrees Fahrenheit with a maximum of 1 1/2 air changes per hour.
- c. New commercial buildings must be constructed so that heat transmission loss from heated areas, based on the ASHRAE Handbook of Fundamentals, does not exceed 35 BTU's per square foot per hour of floor area based on a design temperature differential of 80 degrees Fahrenheit.
- d. From June 1, 1978, through October 31, 1979, all installed air conditioning systems in all new commercial buildings and in all new residential dwellings shall have an energy efficiency ratio of 7.0 BTU's or more of cooling capacity per watt hours of input based on current ARI Standards. On and after November 1, 1979, all such air conditioning systems

shall have an energy efficiency ratio of 8.0 BTU's or more of cooling capacity per watt hours of input based on the current ARI Standards.

- e. From June 1, 1978, through October 31, 1979, all heat pump systems installed in all new commercial buildings and in all new residential dwellings shall have an energy efficiency ratio of 6.7 BTU's or more of cooling capacity per watt hours of input based on current ARI Standards. On and after November 1, 1979, all such heat pump systems, shall have an energy efficiency ratio of 7.5 BTU's or more of cooling capacity per watt hours of input based on current ARI Standards.

SECTION 4. FORM, CONTENT AND FILING OF CERTIFICATES OF QUALIFICATION AND SUPPORTING STATEMENTS. (a) The certificates of qualification required under Section 2 above shall be submitted in writing, signed by the owner and shall include the following facts, data and information:

- (i) Date of the certification.
- (ii) Name and address of the owner.
- (iii) Address of the new utility service and connection.
- (iv) The type of utility service applied for.
- (v) The type and kind of construction of the new structure and whether the same is residential or commercial as defined in this ordinance.
- (vi) The square feet of heated space within the new structure.
- (vii) A complete description of the heating and/or cooling systems and/or storm windows and storm doors installed or to be installed in the new structure, including make, model, size, serial number (if applicable) and all other data and specifications available from the manufacturer and dealer for the equipment installed.
- (viii) A specific statement that the new structure and/or the equipment installed, or to be installed, meets or exceeds each of the

individual and separate standards set forth in Section 3 which shall be applicable thereto.

- (ix) Any and all other facts and data which may from time to time hereafter be made necessary and required by Kansas statutes or by order of the Kansas Corporation Commission or by the City.

(b) Supporting statements of an architect and/or a contractor as required under Section 2 above shall be in writing, signed by the architect or contractor. Such supporting statements shall be in such form and shall contain such information as the architect or contractor involved shall consider necessary or appropriate subject, however, to the condition that such supporting statements must specifically certify that the structure described in the statement meets or exceeds each of the standards imposed under Section 3 above which are applicable thereto.

(c) All certificates of qualification and supporting statements shall be executed and submitted in duplicate. The original copy thereof shall constitute the City's official permanent copy and the same shall be filed in the office of the City Clerk and shall be maintained as a part of the City's permanent records. The duplicate copy shall be filed with the city utility and shall be kept and maintained as a part of its records for its future use and reference.


SECTION 5. TERMINATION OF UTILITY CONNECTION AND SERVICE TO IMPROPERLY CERTIFIED STRUCTURE; INSPECTION AND PROCEDURE THEREFOR; APPEAL THEREFROM. (a) The employees, officers, agents, contractors and all other authorized representatives of the City and the City Utility shall have the authority, during all reasonable hours to enter, in accordance with existing laws, in and upon all buildings, structures and premises which are the subject of this Ordinance for the purpose of examination, inspection and investigation to determine the accuracy and correctness of any of the facts and representations set forth and contained in the certificate of qualification and/or the supporting statements for the structure and premises entered and inspected. Failure or refusal by the owner or the occupants of any structure and premises for which a certificate of qualification has been filed to authorize and permit such entry and inspection shall constitute prima facie evidence of the fact that the representations made and the facts set forth in the certificate of qualification for the structure are incorrect and unsupported by the conditions existing in such structure and, therefore, that the said structure does not qualify for certification.

(b) The Governing Body of the City is authorized and empowered to order the termination and discontinuance of utility service to any structure for which a certificate of qualification has been filed if, after a hearing, such Governing Body shall find and determine that the structure for which a certain certificate of qualification has been filed does not, in fact, meet all of the applicable standards established and imposed under Section 3 of this ordinance for such structure. Notice in writing of the time, place and purpose of such hearing and of the specific standards allegedly being violated shall be served upon the owner and the persons in possession of the alleged nonconforming structure at least five (5) days prior to the date for hearing. Service of such notice shall be completed by certified mail, return receipt requested, or such service may be completed in the manner prescribed for service of summons in K.S.A. 60-304.

(c) Any order entered by the Governing Body for the interruption and termination of utility service for failure to comply with any standard herein imposed may be appealed by the owner to the District Court of Doniphan County, Kansas, and, if so appealed, the District Court shall proceed to hear such appeal in the same manner as though such court had original jurisdiction of the matter. Appeal from any such order shall be taken and perfected in the manner required for the taking and perfection of an appeal from a final judgment under the Code of Civil Procedure for Limited Actions and more particularly, K.S.A. 61-2102. In the event of any such appeal, the order of the Governing Body from which the appeal is taken, shall be stayed and suspended during the pendency of such appeal.

SECTION 6. EFFECTIVE DATE. This ordinance shall take effect and be in force from and after its publication in the official City newspaper.

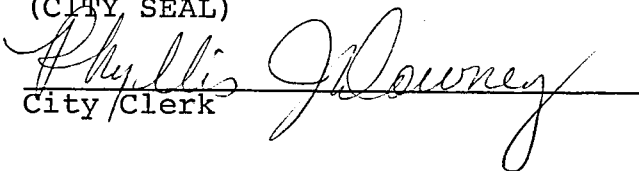
PASSED by the Council and APPROVED by the Mayor on the
17, day of May, 1978.



Mayor, City of Wathena, Kansas

ATTEST:

(CITY SEAL)



City Clerk