

ORDINANCE NO. 399

AN ORDINANCE PROHIBITING THE STORAGE OF HAZARDOUS MATERIAL WITHIN THE CORPORATE LIMITS OF THE CITY OF WATHENA, KANSAS, PROVIDING PENALTIES FOR THE VIOLATION THEREOF, AND REPEALING ALL ORDINANCES AND PARTS OF ORDINANCES OF THE CITY IN CONFLICT HEREWITH.

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

SECTION 1. DEFINITIONS. (a) "Hazardous material" means material or combination of materials which because of its quantity, concentration or physical, chemical, biological or infectious characteristics or as otherwise determined by the State or Federal Governments to cause, or significantly contribute to an increase in serious irreversible or incapacitating reversible illness; or pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported or disposed of or otherwise managed. Hazardous material shall not include: (1) household waste; (2) agricultural waste returned to the soil as fertilizer; (3) mining waste and overburden from the extraction, beneficiation and processing of ores and minerals, if returned to the mine site; (4) drilling fluids, produced waters and other wastes associated with the exploration, development and production of crude oil, natural gas or geothermal energy; (5) fly ash, bottom ash, slag and flue gas emission control waste generated primarily from the combustion of coal or other fossil fuel; (6) cement kiln dust; (7) material listed in 40 CFR 261.4 as in effect on July 1, 1983; or (8) agriculture chemicals held for resale by a business engaged in the sale of such products.

(b) "Acutely Hazardous Material" shall mean and include any commercial chemical product or manufacturing chemical intermediate having a generic name listed in 40 CFR 261.33 (e), as in effect on July 1, 1984, or an off-specification commercial chemical product or manufacturing chemical intermediate which if either met specifications, would have a generic name listed in 40 CFR 261.33 (e), as in effect on July 1, 1984.

(c) The term "Hazardous Material" when used herein without an identifying adjective which designates and refers to a particular class of hazardous material, shall collectively mean, refer to and include all two classes of hazardous material as defined in Subsection (a) and (b) of Section 1 of this Ordinance.

SECTION 2. HAZARDOUS MATERIAL PROHIBITED. It shall be unlawful for any person or firm to store, park, maintain, or otherwise leave unattended within the city limits of the City of Wathena, Kansas, any hazardous material. By unattended it shall mean the parking, storage or otherwise having such hazardous material within the corporate city limits for any purpose other than the immediate transfer through the said city limits while in transport. Nothing in this section shall prevent the transporting of hazardous material through the City over the most direct route providing such transporting is made in a direct, safe and careful manner and such hazardous material is not left unattended as herein prohibited.

SECTION 3. PENALTIES. (a) Any person or firm who violates the provisions of this Ordinance shall, upon the first conviction thereof, be fined a sum not exceeding Two Hundred Dollars (\$200.00) or by imprisonment in the county jail for a term not exceeding Thrity (30) days or both such fine and imprisonment, and upon a second or a subsequent conviction a fine not exceeding Five Hundred Dollars (\$500.00) or imprisonment in the county jail for a term not exceeding sixty (60) days or both such fine and imprisonment.

(b) Each day hazardous material remains within the City limits in violation of this Ordinance shall constitute a separate offense under the provisions of this Ordinance.

(c) In addition to the penalties provided for a violation of this Ordinance such hazardous material shall constitute a common nuisance as defined by Ordinance No. 281 of the City of Wathena and be subject to abatement pursuant to the provisions of such Ordinance and further subject to injunctive relief as provided by State law.

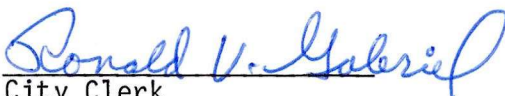
SECTION 4. REPEALER. All ordinances and parts of ordinances of the City of Wathena in conflict herewith are hereby repealed.

SECTION 5. EFFECTIVE DATE. This Ordinance shall be in force and take effect from and after its passage and publication in the Official City Newspaper.

PASSED and APPROVED on the 21st day of October, 1986.


Mayor

ATTEST:


City Clerk

(CITY SEAL)