

ORDINANCE NO. 559

AN ORDINANCE OF THE CITY OF WATHENA, KANSAS, DEFINING CERTAIN STANDARDS OF PROHIBITED CONDUCT FOR PERSONS WITHIN THE CITY OF WATHENA, KANSAS; MAKING VIOLATION OF ANY OF SUCH STANDARDS A PUBLIC OFFENSE AND SUBJECT TO A PENALTY; PRESCRIBING THE NATURE AND EXTENT OF SUCH PENALTY; ADOPTING AND INCORPORATING BY REFERENCE THE PROVISIONS OF THE UNIFORM PUBLIC OFFENSE CODE FOR KANSAS CITIES, EDITION OF 2004, PREPARED AND PUBLISHED BY THE LEAGUE OF KANSAS MUNICIPALITIES; AND REPEALING ORDINANCE NO. 553 AND ALL OTHER ORDINANCES AND PARTS OF ORDINANCES IN CONFLICT HERewith, SPECIALLY EXCLUDING THEREFROM THE STANDARD TRAFFIC ORDINANCE FOR KANSAS CITIES AS ADOPTED BY THE CITY OF WATHENA.

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

SECTION 1. UNIFORM PUBLIC OFFENSE CODE FOR KANSAS CITIES, EDITION OF 2004, INCORPORATED. Pursuant to the provisions of K.S.A. 12-3009 through 12-3012, and K.S.A. 12-3301 and 12-3302, and any amendments thereto, the provisions of the Uniform Public Offense Code for Kansas Cities, Edition of 2004, prepared and published by the League of Kansas Municipalities, and contained in booklet form or pamphlet form, are hereby adopted and enacted as an Ordinance of the City of Wathena, Kansas and said Uniform Public Offense Code for Kansas Cities, is hereby incorporated in this Ordinance by reference, the same as if the same had been set out in full herein.

SECTION 2. DISTRIBUTION OF COPIES OF ORDINANCE.

(a) Immediately after publication of this Ordinance, the City Clerk shall mark or stamp on three (3) copies of such of the aforesaid Uniform Public Offense Code for Kansas Cities the following legend: "Official Copy as Incorporated by Ordinance No. 559" and said City Clerk shall attach to each of such copies a copy of this incorporating Ordinance and said three (3) documents, so compiled and prepared, shall thereafter remain on file in the office of the public at all reasonable business hours.

(b) In addition to the three (3) copies of this Ordinance and incorporated Uniform Public Offense Code for Kansas Cities which the City Clerk will prepare and file as provided in subparagraph (a) of this Section, the City Clerk shall, at the same time, compile and complete an additional seven (7) copies of this Ordinance and incorporated Uniform Public Offense Code for Kansas Cities in document form in the manner prescribed in said paragraph (a) of this Section, and shall distribute such documents as follows: One (1) copy to the Municipal Judge, two (2) copies to the City Attorney, and four (4) copies to the Police Department of the City of Wathena.

SECTION 3. DELETION OF SECTION 13 OF ARTICLE 10. Section 13 of Article 10, relating to barbed wire, of the aforesaid Uniform Public Offense Code for Kansas Cities, is also hereby amended by deleting the said Section 13 in its entirety.

SECTION 4. POSSESSION OR CONSUMPTION OF CEREAL MALT BEVERAGE PROHIBITED IN CERTAIN PLACES. (a) No person shall drink or consume any cereal malt beverage in such person's possession in an open container, while such person is upon the public property, public streets, alleys, roads, highways, rights-of-way, parks or other public places within the City of Wathena. No person shall drink or consume any cereal malt beverage, or have any such cereal malt beverage in such person's possession in an open container, while such person is upon private property within the City of Wathena, except by a person occupying such property as an owner or lessee of an owner and by the invited guests of such owner or lessee or by a person on private property on which is located a business or establishment which is lawfully licensed to sell cereal malt beverage for consumption on the premises.

(b) Violation of this section is a Class C violation for which the minimum fine is \$50.00.

SECTION 5. POSSESSION OR CONSUMPTION OF ALCOHOLIC LIQUOR PROHIBITED IN CERTAIN PLACES. (a) No person shall

drink or consume any alcoholic liquor or have any such alcoholic liquor in such person's possession in an open container, while such person is upon the public property, public streets, alleys, roads, highways, rights-of-way, parks or other public places within the City of Wathena, or in any beer parlor, tavern, pool hall or other place to which the general public has access (unless the same is otherwise permitted under state law). No person shall drink or consume any alcoholic liquor, or have any such alcoholic liquor in such private property within the City of Wathena, except by a person occupying such property as an owner or lessee of an owner and by the invited guests of such owner or lessee.

(b) Violation of this section is a Class C violation for which the minimum fine is \$50.00.

SECTION 6. UNLAWFULLY PERMITTING CONSUMPTION OF CEREAL MALT BEVERAGE. (a) No proprietor, owner or licensee, or any agent or employee of any such proprietor, owner or licensee, shall permit any person under the legal age for consumption of cereal malt beverage in any place of business or establishment licensed to sell cereal malt beverages. The lack of knowledge of the age of the consumer or possessor of the cereal malt beverage shall not be a defense to a violation of this section.

(b) Violation of this section is a Class C violation for which the minimum fine is \$50.00.

SECTION 7. ADDITION OF ARTICLE 14. The Uniform Public Offense Code for Kansas Cities is hereby supplemented by the addition of ARTICLE 14, DRUG OFFENSES and by adding the following sections thereto:

SECTION 14.1 POSSESSION OF DEPRESSANTS, STIMULANTS OR HALLUCINOGENIC DRUGS OR OTHER SUBSTANCES.

(a) Except as authorized by the Uniform Controlled Substances Act under state law, it shall be unlawful for any person to possess or have under such person's control:

(1) Any depressant designated in subsection (e) of K.S.A. 65-4105, subsection (e) OF K.S.A. 65-4107, subsection (b) or (c) of K.S.A. 65-4109 or subsection (b) of K.S.A. 65-4111, and amendments thereto;

(2) any stimulant designated in subsection (f) of K.S.A. 65-4105, subsection (d)(2), (d)(4) or (f)(2) of K.S.A. 65-4107 or subsection (e) of K.S.A. 65-4109, and amendments thereto;

(3) any hallucinogenic drug designated in subsection (d) of K.S.A. 65-4105 and amendments thereto or designated in subsection (g) of K.S.A. 65-4107 and amendments thereto or designated in subsection (g) of K.S.A. 65-4109 and amendments thereto;

(4) any substance designated in subsection (g) of K.S.A. 65-4105, and amendments thereto, and designated in subsection (c), (d), (e), (f) or (g) of K.S.A. 65-4111 and amendments thereto; or

(5) any anabolic steroids as defined in subsection (f) of K.S.A. 65-4109, and amendments thereto.

(b) It shall not be a defense to charges arising under this section that the defendant was acting in an agency relationship on behalf of any other party in a transaction involving a controlled substance.

(c) For purposes of the uniform controlled substances act, the prohibitions contained in this section shall apply to controlled substance analogs as defined in subsection (bb) of K.S.A. 65-4101 and amendments thereto.

(d) Except as specified otherwise herein, the provisions of this section shall be in conformance with the provisions of the Uniform Controlled Substances Act under state law, and the definitions and other provisions of such act shall apply herein.

(e) Any person who violates this ordinance shall be guilty of a Class A violation.

SECTION 14.2 USE OR POSSESSION OF SIMULATED CONTROLLED SUBSTANCES AND DRUG PARAPHERNALIA.

(a) No person shall use or possess with intent to use:

(1) Any simulated controlled substance;

(2) any drug paraphernalia to use, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance in violation of the Uniform Controlled Substances Act under state law;

(b) Except as specified otherwise herein, the provisions of this section shall be in conformance with the provisions of the Uniform Controlled Substances Act under state law, and the definitions and other provisions of such act shall apply herein.

(c) Any person who violates this ordinance shall be guilty of a Class A violation.

SECTION 7. REPEALER. Ordinance No. 553 and all other Ordinances and parts of Ordinances of the City of Wathena in conflict herewith are hereby repealed, specifically excluding the Standard Traffic Ordinance for Kansas Cities as adopted by the City of Wathena.

SECTION 8. EFFECTIVE DATE. This Ordinance shall take effect and be in force and take effect from and after its publication in The Wathena Times, the official City newspaper.

PASSED by the Council and APPROVED by the Mayor on the 2nd day of August, 2004.


James P. McAnerney, Mayor

Ordinance No. 559

Page - 6 -

ATTEST:

(CITY SEAL)

A handwritten signature in cursive script, appearing to read "J. Richardson", is written above a horizontal line.

James Richardson, City Clerk