

ORDINANCE NO. B-368

AN ORDINANCE FOR THE PROTECTION OF WELLHEADS
AND AQUIFERS, ESTABLISHING PERMITTED AND
PROHIBITED ACTS RELATING TO SAME, AND
ESTABLISHING PENALTIES FOR VIOLATIONS.

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

Section 1. DEFINITIONS

The following words shall have the following meanings,
provided that the use of examples shall not be considered a
limitation in interpretation:

1. AQUIFER. A water-bearing rock medium; rock or sediment
formation that can store and transmit water to wells.

 a. Confined aquifer: An aquifer overlain and underlain
by confining beds that have significantly lower hydraulic
conductivity than that of the aquifer medium; also called an
artesian aquifer.

 b. Unconfined aquifer: An aquifer above which there
are no confining rock layers of lower hydraulic conductivity to
stop or significantly decrease water movement.

2. AUTHORIZED REPRESENTATIVE. Any representative of the
City of Victoria, Kansas, who is designated by the Governing Body
to administer this ordinance.

3. CLASS V INJECTION WELL. A class of injection wells, as
defined by the Environmental Protection Agency (EPA), ranging from
cesspools to automotive service station disposal wells; does not
include disposal of municipal or hazardous wastes (Class I or IV),
oil or gas activity wells (Class II), or mineral extraction wells
(Class III).

4. CONFINED FEEDING. A feeding operation involving animal
unit(s) in either a confined area where manure may concentrate or
in a situation where the concentration of animal(s) is such that
vegetative cover cannot be maintained.

5. CONTAMINATION. The process of making groundwater impure,
unclean, inferior, or unfit for domestic uses by introduction of
undesirable elements.

6. CONTINGENCY PLANS. Detailed plans for control,
containment, recovery, and clean up of hazardous material released
during floods, fires, equipment failures, leaks, and spills.

7. DEVELOPMENT. The carrying out of any surface or structure construction, reconstruction, or alteration of land use or intensity of use.

8. ELLIS COUNTY ENVIRONMENTAL CODE. The environmental code adopted by the Ellis County Commissioners.

9. FACILITY. Something built, installed, or established for a particular purpose.

10. HAZARDOUS MATERIAL. A material which is defined in one or more of the following categories:

- a. Ignitable: A gas, liquid, or solid which may cause fires through friction, absorption of moisture, or which has low flash points: Examples: white phosphorus and gasoline.
- b. Carcinogenic: A gas, liquid, or solid which is normally considered to be cancer causing or mutagenic. Examples: PCB's in some waste oils.
- c. Explosive: A reactive gas, liquid, or solid which will vigorously and energetically react uncontrollably if exposed to heat, shock, pressure, or combinations thereof. Examples: dynamite, organic peroxides, and ammonium nitrate.
- d. Highly Toxic: A gas, liquid, or solid so dangerous to man as to afford an unusual hazard to life. Examples: parathion and chlorine gas.
- e. Moderately Toxic: A gas, liquid, or solid which through repeated exposure or in a single large dose can be hazardous to man. Example: atrazine.
- f. Corrosive: Any material, whether acid or alkaline, which will cause severe damage to human tissue, or in case of leakage might damage or destroy other containers of hazardous materials and cause the release of their contents. Examples: battery acid and phosphoric acid.

11. LEAKS AND SPILLS. Any unplanned or improper discharge of a potential contaminant, including any discharge of a hazardous material.

12. PRIMARY CONTAINMENT FACILITY. A tank, pit, container, pipe, or vessel of first containment of a liquid or chemical.

13. PUBLIC WATER SUPPLY SYSTEM. A system for the provision to the public of piped water for human consumption, if such system has at least ten (10) service connections or regularly serves an average of at least twenty-five (25) individuals at least sixty (60) days out of the year. Such term shall include any source, treatment, storage, or distribution facilities under control of the operator of the system and used primarily in connection with the system, and any source, treatment, storage, or distribution facilities not under such control but which are used in connection with such system.

14. SECONDARY CONTAINMENT FACILITY. A second tank, catchment pit, pipe, or vessel that limits and contains a liquid or chemical leaking or leaching from a primary containment area.

Section 2. PROHIBITED USES

The following are prohibited in the City of Victoria, Kansas:

1. Confined feeding within 300 feet of existing public water supply well;
2. Disposal of wastewater treatment sludge;
3. Hazardous waste or radioactive waste disposal sites;
4. Class V wells receiving hazardous or radioactive waste;
5. Sanitary and construction/demolition landfills and other commercial dumpsites.

Section 3. EXCEPTIONS

The governing body of the City of Victoria, Kansas, shall have the power to authorize in specific cases a variance from the specific terms of this ordinance, which will not be contrary to the public interest and where, owing to special conditions, a literal enforcement of the provisions of this ordinance will, in an individual case, result in unnecessary hardship, provided that the spirit of this ordinance shall be observed, public safety and welfare secured, and substantial justice done.

In considering the granting of an exception herein, the governing body of the City of Victoria, Kansas, shall require the applicant to show that the property was acquired in good faith and that the strict application of the terms of this Ordinance prohibit all use of the property. The governing body shall also find, before granting an exception, that the exception arises from a condition which is unique to the property in question and which is not ordinarily found in the same type of property owner, that the granting of the exception will not adversely affect the rights of adjacent property owners or residents, that the granting of the exception will not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare, and that the granting of the exception will not be opposed to the general spirit and intent of this ordinance.

Section 4. PERFORMANCE STANDARDS FOR WELLHEAD/AQUIFER PROTECTION

The following standards shall apply within the City of Victoria, Kansas:

- A. New or replacement septic tanks and associated drain fields for containment and disposal of human waste shall conform with regulations established by the Ellis County Environmental Code.
- B. Non-public and semi-public water wells shall conform with regulation established by the Ellis County Environmental Code.
- C. Owners of existing underground storage tanks (USTs) and above ground storage tanks are required to notify the Authorized Representative immediately of any release detection, unexplained inventory losses, upgrades, new installations, and fines assessed by other agencies for violations.

Existing UST facilities shall comply with local, state, and federal fire and environmental UST regulations regarding tanks and pressurized lines.

The Authorized Representative will make periodic inspections for compliance with local, state, and federal regulations and will spot check inventory records.

Newly constructed or reconstructed UST installations shall have double containment for both piping and tanks. This shall be accomplished with either a below-ground vaulted tank, a double walled tank, or other approved technology. All piping shall be double walled.

The Authorized Representative shall be notified of new UST installation so that it can be inspected. Installation shall be in compliance with existing local, state, and federal fire and environmental UST programs.

- D. All automotive and equipment service operations shall comply with EPA prohibitions of the disposal into Class V wells of gasoline, diesel fuel, waste oil, antifreeze, degreasers, brake fluids, transmission fluids, or other nonsanitary waste. Those petroleum wastes which can not be recycled shall be disposed of according to federal, state, and local waste regulations.

All material used for spill clean-up and all wastes shall be disposed of according to federal, state, and local waste regulations.

- E. Any facility (excluding households) involving collection, handling, manufacture, use storage, transfer, or disposal of hazardous materials shall prepare and have on file with the City of Victoria, Kansas, an acceptable contingency plan designed to prevent hazardous materials from contaminating the aquifer should floods, fire, or other natural catastrophes or equipment failure occur.
- i. The Authorized Representative shall develop a public program for schools, business, governmental entities, and households in the City of Victoria. Residents shall be encouraged to utilize the Household Hazardous Waste Facility.
- ii. The Authorized Representative shall be informed immediately of all leaks and spills of material that might potentially contaminate groundwater.
- F. No person shall transfer the ownership of any property to which water is supplied until and unless the property has been inspected and found in compliance with the City of Victoria's Cross Connection and Backflow Prevention requirements as defined by law.

Section 5. LIMITATION OF CITY LIABILITY

Nothing in this ordinance shall be construed to imply that the City of Victoria, Kansas, by issuing a permit, has accepted any of an owner/developer's liability if a permitted development contaminates groundwater.

Section 6. ENFORCEMENT, VIOLATION, AND PENALTY

It shall be the duty of the Authorized Representative to enforce this Ordinance. The owner or agent of a building or premises in or upon which a violation of any provision of this ordinance has been committed or shall exist, shall be punished by a fine not to exceed \$500 (Five Hundred Dollars) or imprisonment for six (6) months, or both for each offense. Each and every day that such violation continues shall constitute a separate offense.

In case any structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained, or any structure or land is used in violation of this ordinance, the Authorized Representative, in addition to other remedies, may institute injunction, mandamus, or other appropriate action or proceedings to prevent such unlawful activity, or to correct or abate such violation, or to prevent the occupancy of said building, structure, or land.

Section 7. SAVING CLAUSE

In the event of conflict between this Ordinance and another Ordinance, the more restrictive Ordinance shall supersede the less restrictive one. Should any section or provision of this ordinance be declared invalid, such decision shall not affect the validity of the ordinance as a whole or any part thereof.

Section 8.

This ordinance shall take effect and be in force from and after its publication in the Ellis County Star, the official city newspaper.

PASSED by the Commission on June 12, 1995.



Allen P. Dreiling
Allen P. Dreiling, Mayor

Alice K. Sander
Alice K. Sander, City Clerk