

(First Published in the Andover Journal, October 17, 1974)

ORDINANCE NO. 218

AN ORDINANCE RELATING TO THE ISSUANCE OF BUILDING PERMITS IN THE CITY OF ANDOVER, KANSAS IN ANY AREA OF SAID CITY AND PROVIDING THAT CERTAIN CONTEMPLATED USES OF ANY PROPOSED BUILDING OR STRUCTURE, OTHER THAN PERSONAL RESIDENCES, WHICH ARE NOT FOR A HOME OCCUPATION, AND THAT THE LOCATION OF SUCH STRUCTURES OR BUILDINGS MUST BE SPECIFICALLY DESCRIBED IN ANY APPLICATION FOR BUILDING PERMITS AND OTHERWISE PROHIBITING ANY DANGEROUS, HAZARDOUS OR NOXIOUS ACTIVITY, PURSUIT OR INDUSTRY, WHETHER OUTSIDE OR NEAR AN EXISTING OR A CONTEMPLATED STRUCTURE OR BUILDING, AND DEFINING CERTAIN TERMS USED HEREIN AND PROVIDING A PROCEDURE FOR APPELLATE REVIEW AND A SAVINGS PROVISION FOR SAID ORDINANCE.

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

Section 1. Definitions:

A) For the purpose of this Ordinance, the words "dangerous or hazardous activity" shall be construed to mean any activity, commerce, or pursuit held or conducted on any premises of any real property within the corporate limits of the City of Andover, Kansas, which activity, by reason of its nature, should be reasonably construed, when conducted in a negligent manner, or in any other manner, to cause damage to real or personal property or injury or death to persons on adjoining real property, or adjoining streets or alleys or easements of said city.

B) The term "noxious activities" as used in this Ordinance, shall mean any activity which for any sustained period of time, or for a series of intermittent short periods of time would offend the sensibilities of a reasonable person in any area near to or adjoining the property upon which such activity is conducted.

C) That for the purpose of this Ordinance, any reference to "tracts" or locations within the said city shall include any real estate within the City of Andover, Kansas including railroad rights-of-ways and other property owned by railroads.

Section 2. That from and after the passage and publication of this Public Health, Safety and Welfare Ordinance it shall be the duty of any person applying for a building permit in the City of Andover, Kansas, when such permit is for the construction or erection of any building or structure to be used for any purpose other than a personal residence, not to be occupied as a home occupation, then the application for such contemplated building or structure shall specify therein any and all materials to be stored or manufactured on the premises or any activities which may be conceivably carried on which might, under any concept be considered to be a hazardous, dangerous, or noxious activity.

Section 3. That the person charged with the approval of building permits in said city shall not issue a building permit, if in his opinion the contemplated use of said premises would constitute a dangerous, hazardous, or noxious activity under the terms of this Ordinance.

Section 4. Any person, firm, or corporation feeling aggrieved by any ruling by the person charged with approving building permits in said city shall have the right to appeal any decision of such person to the Governing Body of said city and the Governing Body shall thereupon, and within a reasonable length of time, hold a hearing, reasonable Notice of which shall be given in writing to the aggrieved person, firm or corporation and after said hearing, and within 10 days from said hearing or continuation of said hearing, issue a ruling whether or not said building permit should be granted, and such ruling shall be final as far as administrative relief is concerned.

Section 5. That nothing herein shall be construed as permitting the carrying on of any dangerous, hazardous, or noxious activity merely because the property upon which such activity is conducted is zoned either for a commercial or industrial use.

Section 6. That should any section or portion of a section of this Ordinance be deemed illegal or unconstitutional then the remaining portion, or portions, of sections of this Ordinance shall be deemed in full force and effect notwithstanding such partial unlegality or unconstitutionality.

Section 7. That this Ordinance shall become effective from and after its publication once in the official city paper.

Eugene Miller
Eugene Miller
Mayor

ATTEST:

Patricia M. Stuenkel
Patricia M. Stuenkel
City Clerk

(SEAL)