

ORDINANCE NO. 78-1

AN ORDINANCE DECLARING IT TO BE A MISDEMEANOR TO FAIL TO APPEAR IN ANSWER TO A WRITTEN SUMMONS ISSUED BY A POLICE OFFICER, AND PROVIDING A PENALTY THEREFORE:

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

SECTION 1. It shall be unlawful for any person to fail to appear in answer to a written summons issued to such person by a Police Officer of the City of Andale, Kansas, for any violation of the Ordinances of the City of Andale, Kansas.

SECTION 2. Any person who fails to appear in answer to such a written summons issued to him by a Police Officer for any violation of the Ordinances of the City shall be deemed guilty of a misdemeanor and upon conviction thereof shall, for the first conviction thereof be punished by a fine of not more than One Hundred Dollars (\$100.00), or by imprisonment for not more than ten (10) days; for a second such conviction within one (1) year thereafter, such person shall be punished by a fine of not more than Two Hundred Dollars (\$200.00), or by imprisonment for not more than twenty (20) days, or by both such fine and imprisonment; upon a third or subsequent conviction within one (1) year after the first conviction, such person shall be punished by a fine of not more than Five Hundred Dollars (\$500.00), or by imprisonment for not more than six (6) months, or by both such fine and imprisonment.

SECTION 3. Ordinance No. 73-4 of the City of Andale is hereby repealed.

SECTION 4. This Ordinance shall take effect and be in force from and after its passage and publication once in the West Sedgwick County News, the official city newspaper.

PASSED AND APPROVED by the Governing Body this 20th day of February, 1978.

Monte K. Bell
Approved by the Mayor

ATTEST:

Jenna Johnson
City Clerk

(SEAL)

SECTION 5. License fees. There are prescribed the following license fees for cereal malt beverages;

(a) General retailer, for retail of draught, bottled and canned cereal malt beverages for consumption on the premises for each place of business, per year \$50.00 .

(b) Case retailer, for each place of business selling only at retail cereal malt beverages in original containers, and not for consumption on the premises, per year \$50.00.

The license shall be issued on an annual basis established by the date approved by the City Council. No rebate or return of any portion of the license fee shall be made in case the license is revoked for any cause provided for under this chapter.

SECTION 6. Transferability of license. No license issued under the provisions of this ordinance shall be transferable, except, upon the death of a licensee, the surviving spouse, executor or administrator, if otherwise qualified, shall be entitled to the use of said license during the remainder of the license year.

SECTION 7. Posting of license. The license so issued to sell cereal malt beverages shall be, by the licensee, kept posted in a conspicuous place in his place of business where cereal malt beverages are sold.

SECTION 8. Suspension of license. The chief of police, upon five days' written notice to the person holding any license to sell cereal malt beverage, shall have the authority to suspend such license for a period not to exceed thirty days, for any violation of the provisions of this chapter or other ordinances pertaining to cereal malt beverages, which violation does not in his judgment justify a recommendation of revocation; provided, however, that the licensee may appeal such order of suspension to the City Council within seven days from the date of such order; and provided further, that in the event such order of suspension is upheld by the City Council, the licensee may, within ten days thereafter, appeal to the district court of the county, in the manner now provided by law in appeals from the Municipal Court.

SECTION 9. Place of business to comply with health and sanitary requirements. The licensee, in the operation of a place of business or tavern selling cereal malt beverages for which a license is issued, shall, at all times, comply with all of the sanitary and health requirements and ordinances of the city and with all of the rules and regulations prescribed by the State Department of Health.

SECTION 10. Hours of sale -- Possession during excluded hours. No cereal malt beverages may be sold, nor may the premises on which a tavern is located be open or in use between the hours of twelve midnight and six a.m., or on Sunday, or on the day of any national, state, county or city election, including primary elections, during the hours the polls are open, nor shall any person, during excluded hours, except the operator of the place of business, have in his possession in such place of business, cereal malt beverages. No cereal malt beverages may be given away by any person except during business hours.

SECTION 11. Private rooms and closed booths prohibited. No private rooms or closed booths shall be operated in a tavern or place of business selling cereal malt beverages.

SECTION 12. Places of business to be open to public during business hours and police at all times. The place of business or tavern selling cereal malt beverages shall be open to the public at all times during business hours and to the police at all times.

*Amended
See Ord. 80-4*
SECTION 13. Sales, etc., to minors prohibited; entering or remaining in taverns, etc., prohibited. No person under eighteen years of age shall be sold, permitted to buy, possess or drink any cereal malt beverage in or about any tavern or public place, and no person under the age of eighteen years shall enter or remain or be permitted to enter and remain in or on the premises of a tavern. It is unlawful for any person to give cereal malt beverages to any person under eighteen years of age.

SECTION 14. Revocation or suspension by the City Council; grounds; right of appeal. The City Council of the city, upon five days written notice to a person holding a license to sell cereal malt beverages, may permanently revoke or cause to be suspended for a period for not more than thirty days such license for any of the following reasons:

- (a) If the licensee has fraudulently obtained the license by giving false information in the application therefor;
- (b) If the licensee has violated any of the provisions of this ordinance; any rule or regulation made by the City Council of this city; or any law or regulation of the state of Kansas regulating the sale of Cereal Malt Beverages;
- (c) If the licensee has become ineligible to obtain a license under this ordinance;
- (d) Drunkenness of a person holding such license, drunkenness of a licensee's manager or employee while on duty and while on the premises for which said license is issued, or for a licensee, his manager or employee permitting any intoxicated person to remain in such place selling cereal malt beverages;
- (e) The sale or gift of cereal malt beverages to anyone under the age of eighteen years by a licensee, his manager or employee;
- (f) The nonpayment of any license fees payable hereunder;
- (g) For a licensee, his manager or employee to permit gambling in or upon premises selling cereal malt beverages;
- (h) For the employment of persons under eighteen years of age in dispensing cereal malt beverages;
- (i) For employing a person who has been adjudged guilty of a felony, a violation of an offense involving a morals charge or a violation of an intoxicating liquor law. The chief of police may require any employee to submit to identification including submitting to fingerprinting to determine if a violation of this section has occurred, and the failure of an employee to submit to such identification, if required by the chief of police, shall be prima facie evidence that the employee is ineligible for employment under the provisions of this section.

For the purposes of this section the term "morals charge" shall include those charges involving prostitution, promoting prostitution, lewd and lascivious behavior, illegal use, possession, or sale of narcotics, marijuana, amphetamines, or barbiturates, sodomy, incest, gambling, illegal cohabitation, adultery, bigamy, and indecent liberties with a child or ward.

- (j) For the sale or possession of or for permitting any person to use or consume upon or in said premises alcoholic liquor, as defined in K.S.A. 41-102(2).

(k) For knowingly allowing or permitting any known felon to loiter upon or about the licensed premises.

Provided, that within twenty (20) days after the order of the City Council revoking or suspending any license the licensee may appeal to the district court and the district court shall proceed to hear such appeal as though such court had original jurisdiction of the matter. Any appeal taken from an order revoking or suspending any such license shall not suspend the order or revocation or suspension during the pendency of any such appeal. In case of the revocation of the license of any licensee, no new license shall be issued to such person or any person acting for or on his or her behalf, for a period of six (6) months thereafter.

SECTION 15. Tavern defined. For purposes of this ordinance a tavern is defined as any place of business which in any one month of a calendar year derives 50% or more of its gross income from the sale of cereal malt beverages. The records of any place of business licensed under this ordinance shall be made available to the city at any reasonable time to determine the application of this section.

SECTION 16. Penalty. Any person who violates any of the provisions of this ordinance shall be guilty of a misdemeanor and upon conviction shall be punished by a fine not to exceed five hundred dollars (\$500.00) or by imprisonment not to exceed six (6) months or by both such fine and imprisonment.

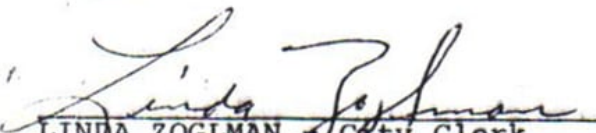
SECTION 17. Prior ordinance repealed. Ordinance No. 79-4 is hereby repealed.

SECTION 18. This Ordinance shall be in force from and after its publication once in the official city paper.

PASSED AND APPROVED by the Governing Body of the City of Andale this 15 day of OCTOBER, 1979.


MONTE K. PELZ - Mayor

ATTEST:


LINDA ZOGLMAN - City Clerk

(SEAL)