

ORDINANCE # 771

AN ORDINANCE REGULATING THE SALE OF CEREAL MALT BEVERAGES, PROVIDING FOR THE LICENSING OF PERSONS SELLING THE SAME, PRESCRIBING LICENSE FEES, ESTABLISHING ZONES, PRESCRIBING RULES AND REGULATIONS, PROVIDING FOR THE REVOCATION OF LICENSES, AND PROVIDING PENALTIES FOR THE VIOLATION THEREOF; AND REVOKING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH:

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF SEDAN, KS.

I

As used in this ordinance, the words and phrases herein defined shall have the following meanings unless the context thereof otherwise requires:

(a.) "Person" shall include individuals, firms co-partnerships, corporations and associations

(b.) "Sales at Retail" and "retail sales" shall mean sales for use or consumption and not for resale in any form.

(c.) "Place of business" shall mean any place at which cereal malt beverages are sold; but shall not be a personal residence of any person, and must be located in "approved business district" as designated by Council.

(d.) "Wholesaler or distributor" shall mean individuals, firms, partnerships, corporations and associations which sell or offer for sale any beverage referred to in this act, to persons, co-partnerships, corporations and associations authorized by this act to sell cereal malt beverages at retail.

(e.) "Cereal malt beverages" shall include any fermented but undistilled liquor brewed or made from malt or from a mixture of malt and/or malt substitute and shall not contain more than three and two-tenths (3.2%) of alcohol by weight.

(f.) Licensee is a "person" as defined in (a.) who has a license as herein required.

(g.) "General retailer" is a licensee who has a license to make a retail sale.

(h.) "Case Retailer" is a licensee who has a license to sell only at retail cereal malt beverages in original and unbroken case lots, and not for consumption on the premises.

II

No person shall sell any cereal malt beverages at retail without first having secured a license for each place of business which each said person expects to operate within the City of Sedan, Kansas as herein provided, and any person having a license to sell only at retail cereal malt beverages in original and unbroken case lots, and not for consumption on the premises, shall not sell such beverages in any other manner.

III

(a.) The fee for a license is to be determined by the City Council of Sedan, Ks. on the first meeting in November annually, for the following years license for both General Retailer and Case Retailer.

(b.) All licenses shall expire at 12:00 o'clock midnight on the 31st day of December of the year which the application for license is filed and the full amount of the fee shall be paid regardless of the time of year the application is made.

IV

All applications for license shall be verified and shall be made upon a form prepared by the Attorney General for the State of Kansas and shall include:

(a.) The name and residence of the applicant, and length of residence within the state of Kansas.

(b.) The particular place for which a license is desired.

(c.) The name of the owner of the premises upon which the place of business is located.

(d.) A statement that the applicant is a citizen of the United States and not less than twenty-one years of age and that he has not within two years immediately preceding the date of making application been convicted of a felony or any crime involving moral turpitude, been adjudged guilty of drunkenness, or driving a motor vehicle while under the influence of intoxicating liquor or the violation of any intoxicating liquor laws of any state or of the United States.

V

No license shall be issued to;

(a.) Any person who within two years immediately preceding the date of making application for a license has been convicted of a felony or any crime involving moral turpitude or been adjudged guilty of drunkenness or driving a motor vehicle while under the influence of intoxicating liquors or violations of any other intoxicating liquor laws of any state or of the United States.

(b.) No license shall be issued to any person who is not a citizen of the United States or who has not been a resident in good faith of the State of Kansas for at least one year preceding the date of said application, or who is not of good moral character and reputation in the community which he resides.

(c.) Any co-partnership, unless one of the co-partners is a resident of the State of Kansas and unless all of the members of such co-partnership shall otherwise be qualified to obtain a license.

(d.) A corporation, if any manager, officer or director thereof or any stockholder owning in the aggregate more than twenty-five percent of the stock of such corporation, would be ineligible to receive a license hereunder for any reason other than non-residence of the State of Kansas.

(e.) A person whose place of business is conducted by a manager or agent unless said manager or agent possesses the same qualifications of the licensee.

(f.) Any person whom the Council shall deem to be an improper person to receive such a license with or without reason.

VI

All applications for a license shall be considered by the governing body at their regular meetings, and if after consideration of the application the same is approved by the governing body, it shall order that a license be granted, and the officers charged with the issuing of licenses shall issue the same. The license issued shall not be transferable, and shall be for a period only from the date of its issuance to the 31st day of December of the year in which it is issued. The license shall be kept posted in a conspicuous place in the place of business of the licensee.

VII

No cereal malt beverages shall be sold between the hours of 12:00 midnight and 6:00am or on Sunday or any election day while the polls are open. After the closing of the polls, sales may resume and no cereal malt beverages shall be drunk or consumed on the premises except during the hours and on the days which cereal malt beverages may be sold. No private rooms or closed booths shall be operated or permitted in or about the place where such beverages are sold. Cereal malt beverages shall be sold only on the premises covered by the license, and there shall be no curb service, and no cereal malt beverages shall be sold by a licensee to any person who is in or on a motor vehicle. No person under the age of twenty one (21) years shall be permitted to buy or drink any such beverages in or about said place covered by said license, and that the said place of business shall be permitted to buy or drink any of such beverages in or about said place covered by said license, and that the said place of business shall be open to the public and to the police at all times for inspection during business hours or anytime employees and/or other persons are on the premises.

VIII

No license shall be issued to any person for the sale of cereal malt beverages unless the applicant is situated in a business building in the City of Sedan, Ks., but no license shall be granted to anyone who proposes to have his business in a building also housing his personal residence.

No location shall be within three hundred (300) feet of a school, hospital, nursing home or a house of worship.

No one may purchase a residential property and operate a cereal malt beverage retail establishment on the same premises.

"Approved Business district" shall be defined by the City governing body and will be reviewed with the application of each cereal malt beverage license.

IX

The governing body of the City of Sedan, Ks. upon five (5) days notice to the person holding the license for sale of cereal malt beverages, shall revoke such license for any of the following reasons:

(a.) If a licensee has fraudently obtained the license by giving false information in the application therefor:

(b.) If the licensee has violated any of the provisions of this ordinance or any ordinance of the City of Sedan prescribing rules or regulations relating to cereal malt beverages as herein: If the licensee has violated any law of the state for which violation the City is authorized by law to revoke the license;

(c.) If the licensee has become ineligible to obtain a license in this ordinance.

(d.) Drunkenness of the of the person holding such a license or permitting any intoxicated person to remain in such a place.

(e.) The sale of cereal malt beverages to those under (21) twenty-one years of age.

(f.) The non-payment of any license fees.

(g.) For permitting any gambling in or upon such premises.

(h.) For permitting any person to mix drinks with materials purchased in said place of business or brought in for this purpose.

(i.) For employment of persons under eighteen (18) years of age in dispensing cereal malt beverages in sealed containers for consumption off premises only. The age of eighteen (18) also applies to restaurants that derive not less than fifty percent (50%) of their gross receipts from the sale of food.

(j.) For employment of persons under twenty-one (21) to sell or dispense cereal malt beverages in a business that derives fifty percent (50%) gross from the sale of cereal malt beverages.

(k.) For the employment of persons who have been adjudged guilty of a felony or of any violation of the intoxicating liquor law.

if any license be revoked, any licensee may appeal to the District Court of Chautauqua County in the manner provided by law. In the case of revocation of the license of any licensee, no new license shall be issued to such person or to any person acting for or on his behalf for a period of six (6) months thereafter.

X

It shall be unlawful for any wholesaler and/or distributor his or its agents or employees, to sell and/or deliver cereal malt beverages within this City to persons authorized under City ordinance to sell same within this City unless such wholesaler or distributor has first secured a license from the Department of Inspection and Registration of the State of Kansas authorizing such sales.

XI

The penalties for sale of cereal malt beverages between the hours of 12:00pm midnight and 6:00am shall be \$250.00 fine for the first offense, together with a thirty (30) day suspension of the license to sell cereal malt beverages. The second offense shall be a \$500.00 fine and revocation of the license to sell cereal malt beverages, in the City of Sedan, Ks.

The penalties for sale of cereal malt beverages to persons under the age of twenty-one (21) shall be for the first offense a fine of \$250.00 and a thirty (30) day suspension of the license to sell cereal malt beverages, and on the second offense a fine of \$500.00 and revocation of license to sell cereal malt beverages in the City of Sedan, Ks.

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Any person violating any other provision of this ordinance shall, upon conviction thereof, be fined not exceeding \$250.00 or imprisoned not exceeding 3 months or both so fined and imprisoned.


XII

All ordinances or parts of ordinances in conflict herewith are hereby repealed.


XIII

This ordinance shall take effect and be in full force from and after this publication one time in the Sedan Times-Star.

PASSED AND APPROVED THIS 5<sup>th</sup> DAY OF SEPTEMBER, 1989

  
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Mayor Wm. K. Walker

ATTEST:

  
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Maxine A. Todd, City Clerk