

(First Published in The Western Butler County Times, February 17, 1972.)

ORDINANCE NO. 164

AN ORDINANCE ENACTED AND TO BE EFFECTIVE ONLY IF THE TERMS OF ORDINANCE NO. 163 OF THE CITY OF ANDOVER, KANSAS, AS PASSED AND ADOPTED ON THE 25th DAY OF JANUARY, 1972 AND EFFECTED IN FULL AND UNDER SUCH CONDITIONS AUTHORIZING THE MAYOR AND CITY CLERK OF THE CITY OF ANDOVER, KANSAS TO ENTER INTO A CERTAIN AGREEMENT FOR THE PURCHASE OF A LICENSE AND EASEMENT TO DISCHARGE THROUGH CERTAIN LANDS OWNED BY ADJOINING LANDOWNERS EFFLUENT FROM THE CITY'S SEWAGE TREATMENT PLANT FOR A PERIOD OF UP TO FIVE YEARS FROM THE 1ST DAY OF FEBRUARY, 1972 AND PROVIDING FOR THE PAYMENT OF A MONTHLY CHARGE FOR SUCH LICENSE OR EASEMENT AND FOR A WAIVER OF DAMAGES FROM SAID ADJOINING LANDOWNERS SO LONG AS SAID MONTHLY CHARGE OR PAYMENT IS MADE BUT NOT TO EXCEED FIVE YEARS FROM THE 1ST DAY OF FEBRUARY, 1972 AND PROVIDING FOR THE METHOD OF PAYMENT OF THE SAME AND RESERVING UNTO SAID LANDOWNERS THE RIGHT TO FILE CLAIMS AND/OR CIVIL ACTIONS FOR DAMAGES WHEN AND IF THE CITY OF ANDOVER, KANSAS CEASES MONTHLY PAYMENTS DURING SAID TWO YEAR PERIOD, SUCH DAMAGES BEING ONLY FOR PERIODS AFTER SUCH CESSATION OF PAYMENT, AND AUTHORIZING THE MAYOR AND CITY CLERK OF SAID CITY TO ENTER INTO AN AGREEMENT TO CARRY OUT THE INTENTION AND EFFECT OF THIS ORDINANCE.

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

Section 1: That this Ordinance shall have no force or effect until all the terms of settlement and releases contemplated in Ordinance No. 163 as passed and adopted on the 25th day of January, 1972 are fully met.

Section 2: That the Mayor and City Clerk of the City of Andover, Kansas are hereby authorized and empowered to enter into a certain agreement with Harold Rickard and Buelah Clark Rickard granting unto the City an easement or license to discharge effluent from the sewage treatment plant operated by the City of Andover, Kansas through the following lands owned by said Harold Rickard and Buelah Clark Rickard, and lying in Butler County, Kansas, to-wit:

West Half ($W\frac{1}{2}$) of the Southeast Quarter ($SE\frac{1}{4}$) of Section Eight (8), Township Twenty-Seven (27), Range Three (3) East less railroad and Kansas Turnpike Authority right-of-ways

and

West Half ($W\frac{1}{2}$) of the Northeast Quarter ($NE\frac{1}{4}$) of Section Seventeen (17), Township Twenty-Seven (27), Range Three (3) East

for a period of five years commencing on the 1st day of February, 1972 and ending on the 31st day of January, 1977, for which the said City shall pay to the said landowners the sum of \$75.00 per month.

Section 3: That said easement and license shall be so drawn and construed to provide that no claims of damages for the discharge of the City's sewage effluent will be filed by the licensors or their heirs, personal representatives or assigns for so long as the City of Andover, Kansas continues to make such monthly payments but in no event, of course, to exceed five years from

February 1, 1972 and the same shall likewise be drawn and construed to be a covenant against damages running with the land.

Section 4: Said license or easement agreement shall also be drawn and construed to permit the City of Andover, Kansas, at anytime during said five year period, to cease to make said payments and upon such cessation of payments then said agreement shall be of no further effect or binding to the parties thereto from the date of such cessation forward, and the landowners shall be entitled to file claims or suits for any actual damages occurring after such cessation of payment.

Section 5: That this Ordinance shall be deemed to be administrative in nature to be enacted as urgent and in an emergency and without the necessity of first reading of the same as otherwise might be required by Ordinance No. 147 of the City of Andover, Kansas as passed and adopted on the 10th day of November, 1970.

THE ABOVE ORDINANCE PASSED AND ADOPTED BY THE GOVERNING BODY OF THE CITY OF ANDOVER, KANSAS THIS 25th DAY OF JANUARY, 1972.

Patricia M. Stueckle
City Clerk

Eugene Miller
Mayor

(SEAL)