

CITY OF HAYSVILLE  
SPECIAL COUNCIL MEETING

Agenda

September 15, 2014

CALL TO ORDER

ROLL CALL

ITEM #1 INTRODUCTION OF ORDINANCES AND RESOLUTIONS

- A. AN ORDINANCE CONCERNING THE AMENDMENT OF CHAPTER 3, ARTICLE 1, AND CHAPTER 17 OF THE CITY CODE OF HAYSVILLE, KANSAS, IN CONNECTION WITH SPECIAL EVENT RETAILERS' PERMITS, ALL WITHIN THE CITY OF HAYSVILLE, SEDGWICK COUNTY, KANSAS.

Memo to Council

Special Event Retailers Ordinance

Temporary Special Event Permit Application

ITEM #2 ADJOURNMENT

# MEMO

TO: The Honorable Bruce Armstrong, Mayor  
Haysville City Councilmembers

FROM: Will Black, Chief Administrative Officer

SUBJECT: Special Meeting Packet Contents

DATE: September 11, 2014

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Following this memorandum, you will find the proposed ordinance. The ordinance has one modification from the ordinance proposed to the Governing Body on Monday, September 8, 2014. That modification is found in section 3-109(f)(3) on page four and is capitalized and shown in red. Here is the text of the modification as found in the subsection:

(3) The boundaries of such Special Event permitted site shall be clearly marked by signs, a posted map, fence or other means which reasonably identify the area in which cereal malt beverage may be possessed or consumed at such Special Event, **AS APPROVED THROUGH THE SPECIAL EVENT PERMIT APPLICATION PROCESS.**

The next document in this packet is the Temporary Special Event Permit Application for consumption of Cereal Malt Beverage. One application requirement is for the applicant to submit a site plan that details the height and type of boundary structure, shows the exact placement of the boundary structure, and marks ingress/egress points in the boundary structure.

The application also requires the applicant to furnish a certificate of insurance naming the “City of Haysville, Kansas, and its officers, employees and agents” as additional insureds if the special event is located on City property and shall be in the amount of \$500,000.

Having requirements in the application that are reviewed by staff and approved by Council will allow decisions to be made that consider the differing types of requests we should expect to receive. Boundary markings for an event held in the Haysville Community Library will most likely differ from those used in an event held in Riggs Park. The type of fencing used at a festival may not be appropriate for use at a wedding reception.

The same method of using less restrictive language in the code and more specific requirements in the application was used for the special events permit process for fun runs of no longer than 10 kilometers, concerts, and fundraisers. This allows for adjustments to be made on the application as we become more experienced with the scenarios presented with each special event that is

applied for. Being able to adjust the application prevents us from having to revise the code whenever a new event, material, or location comes up.

The major difference between the special events permit for runs, concerts, and fundraisers and the temporary special event permit for CMB is that the former is approved by the Chief Administrative Officer and the latter is approved by the Governing Body because it includes waivers needed for CMB. Staff will make recommendations to applicants during the application process for both types of applications, but Council will have the final say concerning temporary special event permits for CMB.

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First published in The Haysville Times on \_\_\_\_\_, 2014.)

CORRECT PUBLICATION  
ORDINANCE NO: \_\_\_\_\_

AN ORDINANCE CONCERNING THE AMENDMENT OF CHAPTER 3, ARTICLE 1, AND CHAPTER 17 OF THE CITY CODE OF HAYSVILLE, KANSAS, IN CONNECTION WITH SPECIAL EVENT RETAILERS' PERMITS, ALL WITHIN THE CITY OF HAYSVILLE, SEDGWICK COUNTY, KANSAS.

WHEREAS, K.S.A. 41-2701 et seq., and amendments thereto, permits the governing body of any city to provide by ordinance for the issuance of a special event retailers' permit which shall allow the permit holder to offer for sale, sell and serve cereal malt beverage for consumption on unpermitted premises, which may be open to the public, subject to the following:

- (1) A special event retailers' permit shall specify the premises for which the permit is issued;
- (2) A special event retailers' permit shall be issued for the duration of the special event, the dates and hours of which shall be specified in the permit;
- (3) No more than four special event retailers' permits may be issued to any one applicant in a calendar year; and
- (4) A special event retailers' permit shall not be transferable or assignable.
- (5) A special event retailers' permit holder shall not be subject to the provisions of the beer and cereal malt beverage keg registration act.

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

SECTION 1: Amending Section 3-102 of the Haysville Code.

Section 3-102 of the Code of Haysville, Kansas is amended to read as follows:

3-102. LICENSE REQUIRED OF RETAILERS. (a) It shall be unlawful for any person to sell any cereal malt beverage at retail without a license for each place of business where cereal malt beverages are to be sold at retail.

(b) It shall be unlawful for any person, having a license to sell cereal malt beverages at retail only in the original and unopened containers and not for consumption on the premises, to sell any cereal malt beverage in any other manner.

(c) It shall be unlawful to sell cereal malt beverage for consumption at a special event located upon unpermitted premises within the City (Special Event site) without obtaining both a Special Event Retailers' Permit and a General Retailers' License. Individuals are encouraged to apply for a Special Event Retailers' Permit at least thirty (30) days prior to applying for the associated General Retailers' License to complete the approval processes of both the proposed special event and special event site.

- (1) A special event retailers' permit shall specify the premises, including outdoor area, for which the permit is issued, and may be held on public property with approval of the Governing Body;
- (2) a special event retailers' permit shall be issued for the duration of the identified special event, the dates and hours of which shall be specified in the permit;
- (3) no more than four special event retailers' permits may be issued to any one applicant in a calendar year;
- (4) a special event retailers' permit shall not be transferable or assignable, to either another person, another location, or another date;
- (5) if a premises waiver, as described in 3-109, is required, such waiver must be obtained as part of the Special Event Retailers' Permitting process;
- (6) a Special Event Retailers' Permit must be posted at the Special Event site during all hours of operation of the Special Event site; and
- (7) a special event retailers' permit holder shall not be subject to the provisions of the beer and cereal malt beverage keg registration act.

The process for approval of a General Retailers' License associated with a Special Event Retailer's Permit shall be in accordance with Chapter III, Article 1.

SECTION 2: Amending Section 3-103 of the Haysville Code.

Section 3-103 of the Code of Haysville, Kansas is amended to read as follows:

3-103. LICENSE FEES. There are hereby prescribed license fees for (a) General Retailers, for each place of business selling cereal malt beverages at retail; the license fee shall be as set out in Chapter 17. Fees for General Retailers Licenses purchased in association with a Special Event Retailers' Permit shall be the same as for General Retailers.

(b) Limited retailers, for each place of business selling only at retail, cereal malt beverages in original and unopened containers, and not for consumption on the premises the fee shall be as set out in Chapter 17.

(c) In addition to the fees charged for General Retailers Licenses, there shall be a daily fee assessed for a Special Event Retailers' Permit based upon the number of days requested to operate the Special Event site, payable upon approval of the Special Event Retailers' Permit, such fees as set forth in Chapter 17 of this municipal code.

(d) The full amount of the license fee shall be required regardless of the time of the year in which the application is made, and the licensee shall only be authorized to operate under the license for the remainder of the calendar year in which the license is issued. There shall be no refunds in cases where the licensee quits business prior to the end of the calendar year. No license issued under this article shall be transferable.

SECTION 3: Amending Section 3-109 of the Haysville Code as follows:

Section 3-109 of the Code of Haysville, Kansas is amended to read as follows:

3-109. RESTRICTION UPON LOCATION AND REVOCATION OF LICENSE.

(a) No license shall be issued for the sale at retail of any cereal malt beverage on premises which are located in areas not zoned for such purpose, except for waivers associated with a Special Event Retailer's License or as otherwise provided for within this section.

(b) It shall be unlawful to sell or dispense at retail any cereal malt beverage at any place within the city limits that is within two hundred (200) feet of a church or school, such two hundred (200) feet to be measured from the nearest property line to the nearest property line of a church or school.

(c) The provisions of this section shall not apply to any establishment holding a cereal malt beverage license issued by the city when the licensee has petitioned for and received a waiver of the distance limitation. The governing body shall grant such a waiver only following public notice and hearing and only for good cause shown.

(d) The governing body upon five (5) days' notice to the persons holding such license shall revoke such license for any one of the following reasons:

(1) The licensee has fraudulently obtained the license by giving false information in the application therefore;

(2) The licensee has violated any of the provisions of this article or any rules or regulations made by the city or any state law regulating cereal malt beverages;

(3) The licensee has become ineligible to obtain a license in this article;

(4) Drunkenness of the licensee or permitting any intoxicated person to remain in the licensee's place of business;

(5) The sale of cereal malt beverages to any person under the legal age for consumption of cereal malt beverage;

(6) The nonpayment of any license fees;

(7) Permitting any gambling in or upon the licensee's place of business;

(8) Permitting any person to mix drinks with materials purchased in the place of business or brought in for that purpose;

(9) The employment of persons under eighteen (18) years of age in dispensing or selling cereal malt beverages;

(10) The employment of persons who have been adjudged guilty of a felony or any violation of the intoxicating liquor law; or

(11) The sale or possession of, or permitting any person to use or consume on the licensed premises, any alcoholic liquor as defined by K.S.A. 41-102 and amendments thereto.

(e) The provisions of subsections (d)(8) and (d)(11) shall not apply if the place of business or premises are also currently licensed as a club or drinking establishment under a license issued by the state director of alcoholic beverage control.

(f) Special Event Retailers' Licenses may be issued for an identifiable outdoor location including public sites (Special Event permitted site), but shall not be located within a public roadway unless such roadway shall have been closed to traffic by action of the Governing Body.

- (1) A Special Event Retailers' License shall in no manner be construed to allow cereal malt beverage to be consumed inside vehicles while on public streets, alleys, roads or highways regardless of the boundaries of any such Special Event permitted site.
- (2) No person shall remove any cereal malt beverage from inside the boundaries of a Special Event permitted site as such area is described within the approved Special Event Permit.
- (3) The boundaries of such Special Event permitted site shall be clearly marked by signs, a posted map, fence or other means which reasonably identify the area in which cereal malt beverage may be possessed or consumed at such Special Event, **AS APPROVED THROUGH THE SPECIAL EVENT PERMIT APPLICATION PROCESS.**
- (4) No person shall possess or consume either cereal malt beverage or alcoholic liquor inside the premises licensed as a Special Event that was not sold or provided by the licensee holding the associated State and/or City issued permits and licenses.
- (5) The Governing Body may require the holder of the Special Event Retailers' License to provide adequate insurance, naming the City as an additional insured, if such Special Event is to take place on any public property or roadway.
- (6) Special Event means a picnic, bazaar, festival or other similar community gathering.

SECTION 4: Amending Section 17-314 of the Haysville Code as follows:

Section 17-314 of the Code of Haysville, Kansas is amended to read as follows:

- 17-314. CEREAL MALT BEVERAGES. The annual license fees required for the sale at retail of cereal malt beverages, as required by section 3-103 of this code, shall be as provided in this section.
- (a) General Retailer. For each place of business selling cereal malt beverages at retail (as set forth within K.S.A. 41-2702(d)(1)) there shall be an initial license fee of one hundred and fifty dollars (\$150.00) which shall be valid for the balance of the calendar year for which it was issued. Licenses are issued for the calendar year and must be renewed prior to January 1<sup>st</sup> of each year. An annual renewal fee shall be one hundred and fifty dollars (\$150.00) if the renewal license fee is paid prior to November 30<sup>th</sup> of the preceding year; and two hundred dollars (\$200.00) if the renewal license fee is paid any after November 30<sup>th</sup> of the preceding year.
  - (b) Limited Retailer. Each place of business selling cereal malt beverages (as set forth within K.S.A. 41-2702(e)) at retail in original and unopened containers, and not for consumption on the business premises, shall pay an initial license fee of fifty dollars (\$50.00) which shall be valid for the balance of the calendar year for which it was issued. An annual renewal fee shall be fifty dollars (\$50.00) and shall be due and collectable any time after November 30<sup>th</sup> of the year prior to which the license shall be valid. Licenses

are issued for the calendar year and must be renewed prior to January 1<sup>st</sup> of each year.

(c) The annual license fee for such license shall be in addition to the State Stamp fee of \$25 mandated by K.S.A. 41-2702(e).

(d) The full amounts of the license fees established by this section shall be paid regardless of the time of the year in which the application is made, and the licensee shall be authorized to operate under said license only for the remainder of the calendar year in which the license is issued. No refunds shall be paid in the event a licensee ceases to do business prior to the end of the calendar year in which the fee was paid.

(e) Non-transferability. No license issued under this section shall be transferable to any person, or entity.

(f) Change of location. The fee assessed for changing the location of a business for which a cereal malt beverage license has been issued as provided for by Section 3-113 of this code shall be ten dollars (\$10.00).

(g) Special Event Retailers' Permit. The assessed fee for a Special Event Retailers' Permit shall be one hundred dollars per day of operation of the Special Event site. For purposes of determining the fee amount, each day or part of day shall be subject to the daily operating fee. Such amount shall be payable by permittee within seven days following approval by the Governing Body of the Special Event Retailers' Permit application, but in no case less than five (5) days prior to the proposed special event. A Special Event Retailers' Permit is not valid until such fee is paid, and a permit is obtained from the City Clerk.

**SECTION 5: Publication.** This Ordinance shall take effect and be in force from and after publication of its summary in the Haysville Times, an official city newspaper.

Passed by the City Council this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

Approved by the Mayor this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

\_\_\_\_\_  
MAYOR Bruce Armstrong

ATTEST:

\_\_\_\_\_  
CITY CLERK, Janie Cox

SEAL



# CITY OF HAYSVILLE, KANSAS

## TEMPORARY SPECIAL EVENT PERMIT APPLICATION

This is an application for (check only one):

*All beverages sold in compliance with Chapter 3, Haysville Municipal Code.*

**Temporary Special Event Permit for consumption of alcoholic liquor.**

K.S.A. 41-719: (2) Alcoholic liquor may be consumed at a special event held on public streets, alleys, roads, sidewalks, highways or structures pursuant to K.S.A 41-2645 for a temporary special event permit. Such special event must be approved by ordinance of the local governing body.

**Ordinance Number:** \_\_\_\_\_ **Attach a copy of State Issued Temporary Permit in lieu of sections #3 and #4 below.**

**Temporary Special Event Permit for consumption of cereal malt beverage.**

K.S.A. 41-2703(e), and Section 3-102(c) of the Haysville Code provides that a special event license may be issued for the sale of cereal malt beverages for consumption on the generally unpermitted premises of a special event site. **Attach copy of approved CMB license.**

**Name of Special Event:** \_\_\_\_\_ **Requested date(s) of operation:** \_\_\_\_\_

**Anticipated hours of operation of Special Event** \_\_\_\_\_

**SITE DESCRIPTION:** The applicant shall define the special event site by 1) the address of a permanent structure, or common name of an outdoor location, and 2) the exact boundaries of the proposed site, including any outdoor areas directly adjacent to a structure to be used as part of a site. Include a photo of any site located outside a structure, and include a site plan showing type and height of boundary structure, ingress/egress, method of restricting juvenile access, restroom access, security placement, etc.

\_\_\_\_\_  
\_\_\_\_\_

### 1. Applicant Information (If attached retailers license application is other than individual, do not fill out sections 1, 3, and 4)

Name of Applicant:

Spouse's full name:

Date of birth:

Age:

SSN:

Place of Birth: (City)

(State)

(County)

Length of residency: (Haysville)

(State)

(County)

Current address:

City:

State:

ZIP Code:

Mailing address:

City:

State:

ZIP Code:

Home Phone:

Mobile Phone:

Driver's License: (State)

#

### 2. Business Information

Name of Business:

Business address:

City:

State:

ZIP Code:

Business Phone:

Premises Owner Phone:

Name of Premises Owner:

Years of ownership:

Address of Premises Owner:

City:

State:

ZIP Code:

### 3. Citizenship

Are you a citizen of the United States?  Yes  No

Citizen by: By Birth  Naturalization

If naturalized give place and date of naturalization:

#### 4. Criminal History

Within the past five years, have you ever been convicted of:

- |   |           |          |
|---|-----------|----------|
| 1) Felony?  | Yes _____ | No _____ |
| 2) A crime of Moral Turpitude?<br>(moral turpitude includes any act associated with prostitution, pandering, crimes opposed to decency, gambling) | Yes _____ | No _____ |
| 3) Drunkenness?   | Yes _____ | No _____ |
| 4) Driving under the influence of intoxicating substance?   | Yes _____ | No _____ |
| 5) Violating any state or federal liquor law?   | Yes _____ | No _____ |

If the answer to any part of this section is "Yes" explain (use a separate sheet if necessary):

#### 5. Insurance Certification

Permittee shall furnish a **Certificate of Insurance** evidencing coverage for any damage caused by Permittee, or Permittee's agents, servants, employees, guests, invitees, volunteers and/or individuals participating in the event(s) described herein. Such Certificate of Insurance shall name "City of Haysville, Kansas, and its officers, employees and agents" as additional insureds if such special event site is located on City property and shall be in the amount of \$500,000.00 combined single limit per occurrence for bodily injury, personal injury, and property damage. Said Certificate shall be submitted to the Haysville City Clerk, 200 W. Grand, Haysville, Kansas, 67226. Said Certificate shall also contain a clause agreeing to notify City of any material change or cancellation of insurance before such is effective. Failure of Permittee to provide City an approved Certificate of Insurance prior to use of above described recreational area, public area, facility or roadway, shall cancel and make void this permit. Permittee agrees to **indemnify and hold harmless City**, its agents, servants, employees or invitees, from and against any and all claims of every kind or character for injuries and/or damages to persons and/or property arising out of or in connection with the use and occupancy of any streets, easements, structures or public areas within the City, and not caused by City negligence. City shall give to Permittee notice of any claim made or litigation instituted which directly or indirectly, contingently or otherwise in any way affects or might affect Permittee. Permittee shall have the right to compromise and participate in the defense of the same to the extent of their own interests. **Tort Claims Applicability, Reimbursement for Damage:** I understand that the City of Haysville does not assume liability for any loss or damage associated with the aforescribed activity permitted to be operated within Haysville parks or in/on public property/roadways pursuant to this permit as part of a recreational or community event, and understand that this permit is approved subject to applicability of the provisions of K.S.A. 75-6104. Permittee shall reimburse City for any cost associated with damage to a public facility, area, or roadway that exceed normal or routine maintenance requirements.

*The following additional requirements shall apply when determined applicable by authorized City Staff. Such additional requirements may require separate Agreement.*

- |                               |                              |                     |
|-------------------------------|------------------------------|---------------------|
| _____ Designated Parking Area | _____ Trash Containers       | _____ Site Clean-up |
| _____ Portable Restrooms      | _____ Barricades for Streets | _____ Security      |
| _____ Other _____             |                              |                     |

**I, hereby agree to comply with all of the ordinances of the City of Haysville and the laws of the State of Kansas, and all the rules and regulations prescribed by the City relating to the operation of the identified "temporary event", and I agree to notify the City immediately if any information provided on this application shall change at any time prior to or during the term of the permit, and do hereby further consent to the immediate revocation of my permit, by the proper officials, for any violation of such laws, rules and regulations. I authorize the verification of the information provided on this form AND agree to permit an investigation of my business history, criminal background, and any other screening by or on behalf of the City of Haysville, Kansas, for the limited purpose of determining the truthfulness of this application, as provided by the law of the State of Kansas, and the City of Haysville, Kansas. By signing this document I certify the foregoing information is true and I am aware that any falsification on this form and any attachments hereto is cause for revocation of the permit or license issued as a result thereof.**

\_\_\_\_\_  
Signature of Applicant

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Authorized Haysville Official

\_\_\_\_\_  
Date

#### OFFICE USE ONLY

Date Received: \_\_\_\_\_ By: \_\_\_\_\_ Fee: \_\_\_\_\_ Receipt #: \_\_\_\_\_

Fees paid in association with rental of City facilities? Receipt # \_\_\_\_\_

Permit approved: \_\_\_\_\_ Permit disapproved: \_\_\_\_\_ By: \_\_\_\_\_ Date: \_\_\_\_\_

Police Department Approval of Request: \_\_\_\_\_ Maintenance Department Approval of request: \_\_\_\_\_

Recreation Department Approval of Request: \_\_\_\_\_

**This document must be acknowledged by Notary Public before submission to City of Haysville, Kansas.**

STATE OF KANSAS            )  
  )  
SEDGWICK COUNTY         )        SS

The foregoing Application for Temporary Special Event Permit was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_ A.D., 20\_\_\_\_ by the individual listed above as the Applicant, and who signed as Applicant, who appeared before me and are personally known by me to be the parties named in the foregoing document,.

Notary Public \_\_\_\_\_

SEAL

My Appointment Expires: \_\_\_\_\_

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