

(Summary published once in the McPherson Sentinel on \_\_\_\_\_, 2016)

**ORDINANCE NO. 3209**

**AN ORDINANCE OF THE CITY OF MCPHERSON, KANSAS AMENDING CHAPTER 6 SECTIONS 3, 4, AND 71 OF THE CODE OF THE CITY OF MCPHERSON, KANSAS REGARDING SPECIAL EVENT PERMITS FOR SALE AND CONSUMPTION OF ALCOHOLIC LIQUOR AND/OR CEREAL MALTBEVERAGES.**

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

**Section 1. Amendment to Section 6-3.** From and after the effective date of this Ordinance, existing Code Section 6-3 is deleted in its entirety and in its place the following is inserted:

Sec. 6-3. Compliance Required. No person shall drink or consume any alcoholic liquor and/or cereal malt beverage or alcoholic liquor on city owned public property, except that the following shall be permissible:

- (a) A person may drink or consume alcoholic liquor and/or cereal malt beverages on the property known as the City of McPherson Municipal Golf Course if such alcoholic liquor and/or cereal malt beverage was purchased at the golf course; and
- (b) A person may drink or consume alcoholic liquor and/or cereal malt beverages within the specifically designated area during designated times specified in any special event permit issued in accordance with Section 6-71 of this Code.

**Section 2. Amendment to Section 6-4.** From and after the effective date of this Ordinance, existing Code Section 6-4 is deleted in its entirety and in its place the following is inserted:

Sec. 6-4. Selling, Serving, Dispensing, Possessing and Consumption in Public Places.

- (a) Except as permitted by any special event permit issued in accordance with Section 6-71 of this Code, it shall be unlawful for any person to sell, serve or dispense any alcoholic liquor and/or cereal malt beverage or alcoholic liquor in any public place not licensed to sell, serve or dispense such beverage at such public place within or under the jurisdiction of the city.
- (b) Except as permitted by any special event permit issued in accordance with Section 6-71 of this Code, it shall be unlawful for any person to drink or consume any alcoholic liquor and/or cereal malt beverage or alcoholic liquor, or to possess such beverage other than in its original unopened package or container, in any public place not licensed to sell and serve such beverage for public consumption at such public place within or under the jurisdiction of the city.

- (c) For purposes of this section, the term “public place” shall include, without limitation, any park, City-owned building, street, public thoroughfare, public parking lot or any privately owned parking area made available to the public generally, any parked or driven motor vehicle situated in any of such places, and any property owned by the state or any governmental subdivision thereof, unless such property is leased to others under K.S.A. 12-1740 *et seq.*, if the property is being used for hotel or motel purposes, or purposes incidental thereto, or is owned or operated by an airport authority created pursuant to K.S.A. ch. 27.

**Section 3. Amendment to Section 6-71.** From and after the effective date of this Ordinance, existing Code Section 6-71 is deleted in its entirety and in its place the following is inserted:

Sec. 6-71. Special Event Permit.

- (a) *General.* An applicant who desires to sell alcoholic liquor and/or cereal malt beverage at a special event but who does not otherwise hold an applicable alcoholic liquor and/or cereal malt beverage license as provided by the Code and state law, may obtain a special event permit under the following conditions. For purposes of this section, a “special event” means a picnic, bazaar, festival or other similar community gathering, which has been approved by the City’s governing body.
- (1) The permit shall specify the premises for which the permit is issued. The specific area where alcoholic liquor and/or cereal malt beverage may be sold and consumed shall be strictly limited and controlled as described in the permit.
  - (2) The permit time shall not include Sunday and the duration of the permit shall not exceed:
    - (a) The duration of the special event for which it is issued.
    - (b) Three consecutive days.
    - (c) 36 total hours.
  - (3) The governing body may limit the type(s) of beverages sold and/or the days and hours of the permit if such limitation is determined to be in the public’s interest. The specific days and times when alcoholic liquor and/or cereal malt beverage may be sold and consumed shall be strictly limited as described in the permit. The permit shall not permit sale or consumption of alcoholic liquor and/or cereal malt beverage after 8:00 pm.
  - (4) No more than four special event permits may be issued to any one applicant in a calendar year. For purposes of determining whether an applicant has exceeded this limitation, the applicant shall be deemed the named sponsor or host of the special event regardless of whether the permit is taken out in the name of an agent of the host or sponsor.
- (b) *Application procedures.* Any person desiring a special event permit shall make an application to the governing body of the city and accompany the application by the required permit fee. The application shall be verified and upon forms prepared by the attorney general of the state and the City.

- (1) The application shall be accompanied by a statement, signed by the applicant, authorizing any governmental agency to provide the city with any information pertinent to the application. One copy of such application shall immediately be transmitted to the chief of police of the city for investigation of the applicant. It shall be the duty of the chief of police to investigate such applicant to determine whether the applicant is qualified as a licensee under the provisions of this chapter. The chief shall report to the governing body not later than five working days subsequent to the receipt of such application and recommend approval or disapproval of the permit. The application shall be scheduled for consideration by the governing body at the earliest meeting consistent with current notification requirements.
  - (2) The application shall be accompanied by a detailed plan for security at the special event, both within and around the specific area where alcoholic liquor and/or cereal malt beverage may be sold and consumed. The chief of police of the city shall have final authority regarding security arrangements required for the special event. The chief of police shall review and approve the security plan prior to issuance of the permit. The right of immediate entry to and inspection of the entire permitted premises, including all portions thereof, by any duly authorized officer or agent of the City and/or by any law enforcement agency or officer shall be a condition on which every special event permit is issued, and the application for and acceptance of the special event permit shall constitute the absolute and irrevocable consent of the applicant and permittee to such immediate entry and inspection.
  - (3) The permittee shall be responsible for payment of the costs of all police and emergency medical personnel required to be present at the special event by the security plan approved by the chief of police. The permittee shall deliver a cash deposit to the city clerk sufficient to cover all such anticipated costs prior to issuance of the permit.
  - (4) All applications for special event permit shall be submitted to the city clerk fourteen days in advance of the governing body's meeting at which the application will be considered.
  - (5) The governing body will not consider any application for a special event permit that has not been submitted ten days in advance and been reviewed by the police department. The governing body shall determine whether the application is in the public's interest and may approve the application, deny the application, or modify and approve the modified application in its discretion.
  - (6) An applicant shall attend the governing body's meeting when the application for a special event permit will be considered.
- (c) *Permit regulations and restrictions.*
- (1) No permit shall be issued in conflict with zoning or any other ordinances of the city.
  - (2) No permit shall be issued for any place within the city limits that is within a 200-foot radius of any church, school, nursing home, public library or hospital unless

the applicant has petitioned for and received a waiver of the distance limitation. The governing body shall grant such a waiver of this subsection only following public notice and hearing.

- (3) No permit shall authorize consumption or possession of alcoholic liquor and/or cereal malt beverage by any person under 21 years of age.
  - (4) No alcoholic liquor and/or cereal malt beverage shall be given, sold, traded, dispensed or distributed to any person under 21 years of age.
  - (5) The permit may require that admittance to the specific area where alcoholic liquor and/or cereal malt beverage may be sold and consumed be strictly limited to persons who are at least 21 years of age.
  - (6) No permit shall be transferred or assigned.
  - (7) The permit shall be posted in a conspicuous place on the premises at the specific location described in the permit during all days and hours specified in the permit.
  - (8) All state and local laws related to the sale or consumption of alcoholic liquor and/or cereal malt beverage shall apply.
- (d) *Grounds for denial generally.* In addition to failing to meet the qualifications noted herein, an applicant may also be denied for any of the grounds listed in K.S.A. 41-2703 and/or K.A.R 14-23-3 as amended.
- (e) *Recording of action taken; issuance; transferability; return of fee upon denial.*
- (1) The approved minutes of the governing body shall show the action taken on the application.
  - (2) If the permit is granted, the city clerk shall issue the permit, which shall show:
    - (a) The name of the permittee.
    - (b) The premises for which the permit is issued, including the specific area where alcoholic liquor and/or cereal malt beverage may be sold and consumed.
    - (c) The specific days and times for which the permit is issued.
  - (3) If the permit is denied, the permit fee shall be immediately returned to the applicant.
- (f) *Fee.* For each permit application, the permit fee shall be as set by resolution of the governing body.

**Section 4. Repeal.** All or parts of the Code conflicting with the provisions of this Ordinance are hereby repealed.

**Section 5. Publication and Effective Date.** This ordinance shall take effect and be in full force and effect from and after its passage, signature and publication of a summary of this ordinance in the official city newspaper and posting of the full text of the ordinance on the city's website in compliance with K.S.A. 12-3007(b).

PASSED by the City Commission and signed by the Mayor this 18th day of April, 2016.

CITY OF MCPHERSON, KANSAS

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Thomas A. Brown, Mayor

[SEAL]

Attest:

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Tamra K. Seely, City Clerk

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## Ordinance No. 3209, Summary

On April 18, 2016, the City of McPherson, Kansas adopted Ordinance No. 3209 amending sections 6-3, 6-4, and 6-71 of the Code of the City of McPherson, Kansas regarding special event permits for sale of alcoholic liquor and/or cereal malt beverages. A complete copy of this Ordinance is available at [www.mcpcity.com](http://www.mcpcity.com) or at the Municipal Center, 400 E. Kansas, McPherson, Kansas. Jeffrey A. Houston, City Attorney, certified this summary.