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Passed: July 18, 2011
Signed: July 28, 2011

ORDINANCE NO. 2011-07-085

**AN ORDINANCE AMENDING URBANA CITY CODE
CHAPTER TWENTY-TWO, SECTIONS 22-90 AND 22-91**

(Establishing Package Liquor Tax)

WHEREAS, the City of Urbana ("City") is an Illinois home rule unit of local government under the Illinois Constitution, 1970, Article VII, Section 6; and

WHEREAS, as an Illinois home rule unit of local government, the City may exercise any power and perform any function pertaining to its government and affairs, including the power to regulate for the protection of the public health and safety and to tax; and

WHEREAS, the City Council heretofore has enacted Urbana City Code Chapter 22, Article VII, establishing a privilege tax on the purchase of certain alcoholic liquor within the City; and

WHEREAS, the City Council finds that the best interests of the City are served by amending said Article to establish a tax upon the purchase of alcoholic liquor in original packages or containers.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Urbana, Champaign County, Illinois, as follows:

Section 1. Urbana City Code Chapter 22, "Taxation," Article VII, "Privilege Tax on Purchase of Prepared Food for Immediate Consumption and Certain Alcoholic Liquor," Sections 22-90 and 22-91, are hereby amended and as amended shall read as follows:

Sec. 22-90. Definitions.

As used in this article, unless the context otherwise requires:

(a) "Alcoholic liquor" means any alcohol, spirits, wine or beer, and every liquid or solid containing more than one-

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half ($\frac{1}{2}$) percent by volume of alcohol, spirits, wine or beer, and capable of being consumed as a beverage by a human being, except medicines or drugs.

(b) "Original package" means any bottle, flask, jug, can, cask, barrel, keg, hogshead or other receptacle or container, whatsoever, used, corked or capped, sealed and labeled by the manufacturer of alcoholic liquor, to contain and to convey any alcoholic liquor.

(c) "Prepared food for immediate consumption" means any solid, semi-solid, powder, liquid or item used or intended to be used primarily for human internal consumption and for nourishment of the human body, which is capable of consumption without further preparation, except alcoholic liquor. The term shall include and be limited to:

(1) Food purchased at establishments where facilities are provided for on-premise consumption, but such term shall not include food purchased from other areas of any such establishment where such facilities provided for on-premise consumption utilize a separate means of collecting receipts for such food purchased for immediate on-premise consumption and are physically separated from such other areas;

(2) Food purchased from concession stands, snack shops and other establishments which sell food primarily (more than fifty (50) percent) in individually sized servings (such as ice cream cones, candy bars and individually served sandwiches) for immediate on-premise or off-premise consumption;

(3) Food purchased from vending machines; and

(4) Food which is purchased hot or is otherwise purchased prepared, such as from catering establishments, for immediate on-premise or off-premise consumption.

(d) "Person" means any individual, firm, partnership or corporation, representative or entity.

(e) "Retailer" means any person or persons having a sufficient proprietary interest in conducting a business which sells prepared food for immediate consumption or alcoholic liquor so as to entitle such person to all or part of the net receipts from the sale thereof.

(Ord. No. 8485-82, § 1, 5-20-85)

Sec. 22-91. Tax.

(a) A tax, in addition to all other taxes, is hereby levied and imposed upon the privilege of purchasing alcoholic liquor in original packages or containers at the rate of one percent (1%) of the purchase price, exclusive

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of any other tax, charged for such alcoholic liquor. A tax, in addition to all other taxes, is hereby levied and imposed upon the privilege of purchasing prepared food for immediate consumption or all other alcoholic liquor, excluding packaged liquor, at the rate of one-half (½) of one percent of the purchase price, exclusive of any other tax, charged for such food or alcoholic liquor.

(b) No such tax shall be levied or imposed upon purchasers for the privilege of purchasing:

(1) Prepared food for immediate consumption purchased at employee cafeterias by employees and guests of employees of such place of employment;

(2) Prepared food for immediate consumption purchased at school lunchrooms by students, teachers, and staff of such school;

(3) Prepared food for immediate consumption purchased at premises or operations of not-for-profit, religious, or governmental corporations who serve such food on an occasional and irregular basis; and

(4) Prepared food for immediate consumption purchased at hospitals by patients or at residential care facilities by residents thereof.

(c) The ultimate incidence of and liability for payment of such tax shall be borne by the purchaser of taxable prepared food for immediate consumption or alcoholic liquor.

(d) Any and all revenues resulting from the imposition and collection of the tax under this Article VII shall be allocated to the general fund.

(Ord. No. 8485-82, § 1, 5-20-85)

Section 2. This ordinance will take effect on October 1, 2011.

Section 3. Those sections, paragraphs, and provisions of the Urbana City Code that are not expressly amended or repealed by this Ordinance are hereby re-enacted, and it is expressly declared to be the intention of this Ordinance not to repeal or amend any portions of the Urbana City Code other than those expressly set forth as amended or repealed in this Ordinance. The invalidity of any section or provision of this Ordinance hereby passed and approved shall not invalidate other sections or provisions thereof.

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Section 4. This Ordinance shall not be construed to affect any suit or proceeding pending in any court, or any rights acquired, or a liability incurred, or any cause or causes of action acquired or existing prior to the effective date of this Ordinance; nor shall any right or remedy of any character be lost, impaired, or affected by this Ordinance.

Section 5. The City Clerk is directed to publish this Ordinance in pamphlet form by authority of the corporate authorities, and this Ordinance shall be in full force and effect as provided in Section 2 herein.

This Ordinance is hereby passed by the affirmative vote, the "ayes" and "nays" being called, of a majority of the members of the Council of the City of Urbana, Illinois, at a meeting of said Council.

PASSED by the City Council this 18th day of July,
2011 .

AYES: Bowersox, Jakobsson, Lewis, Mathan, Roberts, Smyth
NAYS: Stevenson
ABSTAINS:



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Charles A. Smyth
City Clerk

APPROVED by the Mayor this 28th day of July,
2011 .

Laurel Lunt Prussing

Laurel Lunt Prussing, Mayor
By: Charles A. Smyth, Mayor Pro-tem