



**LEGAL DIVISION**  
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**DATE: October 28, 2015**  
**TO: City Council**  
**CC: Mayor Prussing**  
**FROM: James Simon**

**RE: Creation of Liquor Licenses for Microbreweries.**

At the request of Mayor Prussing (as Local Liquor Commissioner), the Legal Division, with input from Community Development Services Department, drafted an ordinance to amend Chapter Three, Section 3-41 and Chapter Fourteen, Section 14-7 to create a new liquor license classification for “microbreweries” and a fee for that new liquor license class. The draft ordinance was presented Committee of the Whole at its October 26, 2015 meeting. The Committee of the Whole voted to advance the draft ordinance on to the November 9<sup>th</sup> City Council meeting. However, during discussion, the Committee of the Whole also came to a consensus that two separate liquor license fees should be created for microbreweries to accommodate those situations where (i) some microbreweries might seek authority only to manufacture their product and sell the same to other liquor licensees while (ii) other microbreweries might seek authority to not only manufacture their product and sell it to other liquor licensees but also sell their product at retail for general public consumption on or off their premises. In the case of the latter business model, a microbrewery would be required to obtain a separate retail liquor license to sell to non-licensees.<sup>1</sup>

Following the Committee of the Whole meeting, Mayor Prussing directed the Legal Division to edit the draft ordinance to provide for two separate microbrewery liquor licenses, each with its own license fee.

A Class MB-1 liquor license will allow a microbrewery to (i) manufacture beer, ale, wine, and other fruit- or malt-based alcoholic beverages on the premises of the licensee in quantities no more than 465,000 gallons (15,000 barrels) per year; (ii) sell licensee’s manufactured beer, ale, wine, and fruit- or malt-based alcoholic beverages to importing distributors and distributors; (iii) sell to other liquor licensees which are licensed to sell at retail alcoholic beverages including beer, ale, wine, and other fruit- or malt-based alcoholic beverages; and (iv) store and inventory on the licensed premises such beer, ale, wine, and other fruit- or

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<sup>1</sup> It is worth noting that some microbreweries which sell their product to non-licensees operate under a business structure where a parent company is established to own two separate companies (wholly-owned subsidiaries – one subsidiary company typically conducts the brewing activities and the other subsidiary company conducts the retail sales. The brewing company would obtain one license for brewing while the other company would obtain a license allowing for retail sale to non-licensees. Neither the Mayor nor the Legal Division has been provided with the business model under which any microbrewery which seeks to operate in the City intends to operate.

malt-based alcoholic beverages manufactured by the licensee. Mayor Prussing proposes a license fee of \$500.00 for a class MB-1 license.

Mayor Prussing proposes a Class MB-2 license fee of \$50.00 since Class MB-2 licensees would be required to obtain a separate license to sell their products at retail to non-licensees for consumption on and/or off the licensee's premises. Class MB-2 license will allow a microbrewery to do everything a microbrewery with a Class MB-1 license can do plus (i) obtain a single and separate liquor license to sell the licensee's manufactured beer, ale, wine, and other fruit- or malt-based alcoholic beverages to the general public for on-premises and/or off-premises consumption and/or provide for tasting of the licensee's manufactured beer, ale, wine, and other fruit- or malt-based alcoholic beverages on the licensee's premises; and (ii) sell goods and products, other than alcoholic beverages, incident to the manufacture and retail sale of the beer, ale, wine, and other fruit- or malt-based alcoholic beverages. An applicant for a Class MB-2 license would be required to either have another type of liquor license at the time it applies for the Class MB-2 license or apply simultaneously for the Class MB-2 license plus another type of license. Such other types of licenses might include:

- Class A – retail sales in package form for consumption on or off premises where sold.
- Class AA – hotel/motel license.
- Class B – retail sale of beer only for consumption on or off the premises were sold.
- Class BB – retail sale of beer and wine only for consumption on or of the premises where sold.
- Class BBB – retail sale of beer and wine only for off premises consumption only.
- Class C – sale in package form only for consumption of the premises only.
- Class D – sale at clubs only to members for consumption on premises only.
- Class HL – limited hotel/motel license.
- Class R-1 – restaurants for consumption of alcoholic liquor on the premises only.
- Class R-2 – restaurants for consumption of beer and wine on the premises only.

The rest of the proposed changes are intended to accommodate the situation should a Class MB-1 licensee wish to obtain a Class MB-2 license and the adjustment in licensing fees in connection therewith.

Attached are a “redline” version of the proposed ordinance which was originally considered by the Committee of the Whole and a “clean” version of the revised proposed ordinance.

**Options:**

The City Council may:

- Adopt a microbrewery licensing ordinance in the form originally considered by the Committee of the Whole.
- Adopt a microbrewery licensing ordinance as modified to provide for two types of microbrewery licenses and fees relative thereto.

- Adopt no ordinance.

**Recommendation:** Mayor Prussing recommends adopting the “clean” version of the microbrewer liquor license ordinance attached to this memorandum.

**ORDINANCE NO. 2015-10-107**

**AN ORDINANCE AMENDING URBANA CITY CODE CHAPTER THREE,  
SECTION 3-41 AND CHAPTER FOURTEEN, SECTION 14-7, REGARDING  
SCHEDULE OF FEES SUBSECTION a – “LIQUOR LICENSES”**

**(Establishing Class MB (microbrewery) liquor license and fee)**

**WHEREAS**, the City of Urbana (“City”) is a home rule unit of local government pursuant to Article VII, Section 6, of the Illinois Constitution, 1970, and may exercise any power and perform any function pertaining to its government and affairs not otherwise expressly reserved to the State of Illinois by legislation, including the power to regulate the manufacture, sale, and consumption of alcoholic liquor for the protection of the public health, safety, and welfare; and

**WHEREAS**, Section 4-1 of the Liquor Control Act of 1934 (235 ILCS 5/4-1) gives the city council in every city the power by general ordinance or resolution to establish such regulations and restrictions upon the issuance of and operations under local liquor licenses; and

**WHEREAS**, the City Council heretofore has enacted Urbana City Code Sections 3-1 *et seq.* concerning the licensing and regulation of establishments which seek to and which sell and/or serve alcoholic liquor to the general public; and

**WHEREAS**, the City Council heretofore has enacted Urbana City Code Section 3-41 which designates certain classifications of local liquor licenses and to regulate said licenses; and

**WHEREAS**, the City Council seeks to license and regulate businesses which manufacture beer, ale, wine, and other fruit- or malt-based alcoholic beverages on their premises; maintain an inventory of their manufactured beer, ale, wine, and other fruit- or malt-based alcoholic beverages on their premises; sell their manufactured beer, ale, wine, and other fruit- or malt-based alcoholic beverages to other liquor licensees; and sell their manufactured beer, ale, wine, and other fruit- or malt-based alcoholic beverages to the general public for consumption on and/or off their premises; and

**WHEREAS**, the City Council finds that the public health, safety, and welfare will best be protected by amending Urbana City Code Section 3-41 to establish two new classes of liquor licenses entitled –

Class MB-1 which would allow establishments to manufacture, store and maintain an inventory of their manufactured beer, ale, wine, and other fruit- or malt-based alcoholic beverages on their premises and sell their manufactured beer, ale, wine, and other fruit- or malt-based alcoholic beverages to other liquor licensees; and

Class MB-2 which would allow establishments to do that which holders of Class MB-1 licensees would be permitted to do and, in addition, to sell their and other companies’

manufactured beer, ale, wine, and other fruit- or malt-based alcoholic beverages from their premises for consumption on or off their premises; and

**WHEREAS**, the City Council heretofore did on September 21, 2015, pursuant to Ordinance No. 2015-09-099, amend Articles II and V of the Urbana Zoning Ordinance establishing definitions and use provisions for “microbreweries”; and

**WHEREAS**, the City Council heretofore did on June 1, 2015, pursuant to Ordinance No. 2015-04-041, amend Urbana City Code Section 14-7 which provides for a schedule of fees for the various licenses, permits, fines, and other fees required under the Code; and

**WHEREAS**, the City Council finds that the best interests of the City are served by amending Urbana City Code Section 14-7 to add new fees for Class MB-1 and Class MB-2 liquor licenses for microbreweries.

**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 3, “Alcoholic Liquors,” Article III, “Retail License,” Section 3-41, “Classification,” is hereby amended by adding a new subsection (r) thereto to read as follows:

(r) Class MB licenses (microbrewery):

(1) Class MB-1 licenses:

(a) A Class MB-1 license shall permit the licensee to:

(i) manufacture beer, ale, wine, and other fruit- or malt-based alcoholic beverages on the premises of the licensee in quantities no more than 465,000 gallons (15,000 barrels) per year;

(ii) sell licensee’s manufactured beer, ale, wine, and fruit- or malt-based alcoholic beverages to importing distributors and distributors;

(iii) sell to other liquor licensees which are licensed to sell at retail alcoholic beverages including beer, ale, wine, and other fruit- or malt-based alcoholic beverages; and

(iv) store and inventory on the licensed premises such beer, ale, wine, and other fruit- or malt-based alcoholic beverages manufactured by the licensee.

(b) In the event that a Class MB-1 licensee applies for and is granted a Class MB-2 license, the Class MB-1 license fee shall be rebated to on a prorate basis for the period when the Class MB-2 license is issued through the following June 30.

(2) Class MB-2 licenses:

(a) A Class MB-2 license shall permit the licensee to:

(i) engage in the same manufacturing, storing and inventory activity which holders of Class MB-1 licenses are permitted to do; and

(ii) obtain a single and separate liquor license which allows the Class MB-2 licensee to sell the licensee's manufactured beer, ale, wine, and other fruit- or malt-based alcoholic beverages to the general public for on-premises and/or off-premises consumption and/or provide for tasting of the licensee's manufactured beer, ale, wine, and other fruit- or malt-based alcoholic beverages on the licensee's premises; and

(iii) sell goods and products, other than alcoholic beverages, incident to the manufacture and retail sale of the beer, ale, wine, and other fruit- or malt-based alcoholic beverages.

(b) A Class MB-2 licensee may only possess one other class of liquor license other than a Class MB-1 license.

(c) In the event that the licensee intends to make or produce food products in a kitchen for service and human consumption on the Class MB-2 licensee's premises, such licensee shall comply with all local and state public health codes concerning the preparation and service of such food.

(d) Applicants for Class MB-2 license must either have another class of liquor license other than an Class MB-1 license or apply simultaneously for another class of liquor license other than an Class MB-1 license.

(e) In the event that a Class MB-1 licensee applies for and is granted a Class MB-2 license, the Class MB-2 license fee shall be prorated from the date the Class MB-2 license is issued through the following June 30.

**Section 2.**

Urbana City Code Chapter 14, "Licenses and Permits," Section 14-7, "Schedule of fees," subsection (A), "Liquor Licenses," Part 1, "Alcoholic Liquor Licenses," is hereby amended by adding new Subparts "(Y)" and "(Z)" thereto to state as follows:

(y) Class MB-1 – Microbrewery (to manufacture, store, inventory, and sell to other liquor licensees)..... \$ 500.00

(z) Class MB-2 – Microbrewery (to manufacture, store, inventory, sell to other liquor licensees, and sell to general public for consumption on- and/or off-premises in conjunction with separate class of liquor license) .....\$50.00

**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.

**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 from and after its passage and publication in accordance with Section 1-2-4 of the Illinois Municipal Code.

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 \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

AYES:

NAYS:

ABSENT:

ABSTAINED:

**APPROVED BY THE MAYOR** this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Phyllis D. Clark, City Clerk

\_\_\_\_\_  
Laurel Lunt Prussing, Mayor



ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE AMENDING URBANA CITY CODE CHAPTER THREE,  
SECTION 3-41 AND CHAPTER FOURTEEN, SECTION 14-7, REGARDING  
SCHEDULE OF FEES SUBSECTION a – “LIQUOR LICENSES”**

**(Establishing Class MB (microbrewery) liquor license and fee)**

**WHEREAS**, the City of Urbana (“City”) is a home rule unit of local government pursuant to Article VII, Section 6, of the Illinois Constitution, 1970, and may exercise any power and perform any function pertaining to its government and affairs not otherwise expressly reserved to the State of Illinois by legislation, including the power to regulate the manufacture, sale, and consumption of liquor for the protection of the public health, safety, and welfare; and

**WHEREAS**, Section 4-1 of the Liquor Control Act of 1934, (235 ILCS 5/4-1), gives the city council in every city the power by general ordinance or resolution to establish such regulations and restrictions upon the issuance of and operations under local liquor licenses ~~not inconsistent with law as the public good and convenience may require~~; and

WHEREAS, the City Council heretofore has enacted Urbana City Code Sections 3-1 et seq. concerning the licensing and regulation of establishments which seek to and which sell and/or serve alcoholic liquor to the general public; and

**WHEREAS**, the City Council heretofore has enacted Urbana City Code Section 3-41 ~~to~~ which designates certain classifications of local liquor licenses and to regulate said licenses; and

**WHEREAS**, the City Council seeks to license and regulate ~~the proposed~~ businesses which manufacture beer, ale, wine, and other fruit- or malt-based alcoholic beverages on their premises; maintain an inventory of their manufactured beer, ale, wine, and other fruit- or malt-based alcoholic beverages on their premises; sell their manufactured beer, ale, wine, and other fruit- or malt-based alcoholic beverages to other liquor licensees; and sell their manufactured beer, ale, wine, and other fruit- or malt-based alcoholic beverages to the general public for consumption on and/or off their premises; seek permission to allow retail sales and on-site consumption of their on-site manufactured liquor; and

**WHEREAS**, the City Council finds that the public health, safety, and welfare will best be protected by amending Urbana City Code Section 3-41 to establish a two new classes of liquor licenses entitled –

Class MB-1 which would allow establishments to manufacture, store and maintain an inventory of their manufactured beer, ale, wine, and other fruit- or malt-based alcoholic beverages on their premises and sell their manufactured beer, ale, wine, and other fruit- or malt-based alcoholic beverages to other liquor licensees; and

Class MB-2 which would allow establishments to do that which holders of Class MB-1 licensees would be permitted to do and, in addition, to sell their and other companies' manufactured beer, ale, wine, and other fruit- or malt-based alcoholic beverages from their premises for consumption on or off their premises; and

~~Class MB to allow the retail sale and service of liquor produced on the premise of the establishment; and~~

**WHEREAS**, the City Council heretofore did on ~~the 21st day of~~ September 21, 2015, pursuant to Ordinance No. 2015-09-099, amend Articles II and V of the Urbana Zoning Ordinance establishing definitions and use provisions for “microbreweries”; and

**WHEREAS**, the City Council heretofore did on ~~the 1st day of~~ June 1, 2015, pursuant to Ordinance No. 2015-04-041, ~~adopt~~amend Urbana City Code Section 14-7 which provides for , ~~establishing~~ a schedule of fees for the various licenses, permits, fines, and other fees required under the Code; and

**WHEREAS**, the City Council finds that the best interests of the City are served by ~~making limited amendments to that schedule of fees, pursuant to amending~~ Urbana City Code Section 14-7 ~~(y) to add new fees for Class MB-1 and Class MB-2 liquor licenses for~~ , ~~concerning~~ microbreweries.

**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 3, “Alcoholic Liquors,” Article III, “Retail License,” Section 3-41, “Classification,” is hereby amended by adding a new subsection (r) thereto to read as follows:

(r) Class MB licenses (microbrewery): ~~shall permit the licensee to:-~~

(1) Class MB-1 licenses:

(a) A Class MB-1 license shall permit the licensee to:

(i) Manufacture beer, ale, wine, and other fruit- or malt-based alcoholic beverages on the premises of the licensee in quantities no more than 465,000 gallons (15,000 barrels) per year;

(2) i) Sell licensee’s manufactured beer, ale, wine, and fruit- or malt-based alcoholic beverages to importing distributors and distributors;

~~(3iii)~~ Ssell to other liquor licensees which are licensed to sell at retail alcoholic beverages including beer, ale, wine, and other fruit- or malt-based alcoholic beverages; and

(iv) store and inventory on the licensed premises such beer, ale, wine, and other fruit- or malt-based alcoholic beverages manufactured by the licensee.

(b) In the event that a Class MB-1 licensee applies for and is granted a Class MB-2 license, the Class MB-1 license fee shall be rebated to on a prorate basis for the period when the Class MB-2 license is issued through the following June 30.

(2) Class MB-2 licenses:

(a) A Class MB-2 license shall permit the licensee to:

(i) engage in the same manufacturing, storing and inventory activity which holders of Class MB-1 licenses are permitted to do; and

(4ii) ~~O~~obtain a single ~~but~~and separate liquor license which allows for the Class MB-2 licensee to sell the licensee's manufactured beer, ale, wine, and other fruit- or malt-based alcoholic beverages to the general public for on-premises and/or off-premises consumption and/or provide for tasting of the licensee's manufactured beer, ale, wine, and other fruit- or malt-based alcoholic beverages on the licensee's premises; and at retail and for consumption on the premises and off the premises for which the retail license is issued which shall be the same premises as where the licensee manufactures its beer, ale and other fruit- or malt-based alcoholic beverages;

(iii) sell goods and products, other than alcoholic beverages, incident to the manufacture and retail sale of the beer, ale, wine, and other fruit- or malt-based alcoholic beverages.

~~(5) — Taste or sample the beer, ale, wine, and other fruit- or malt based beverages which the licensee manufactures on the premises licensed for retail sales of the beer, ale and other fruit- or malt based beverages so manufactured on the premises;~~

~~(6) — Store or inventory on the licensed premises such beer, ale, wine, and other fruit- or malt based alcoholic beverages manufactured by the licensee;~~

~~(7) Sell goods and products, other than alcoholic beverages, incident to the manufacture and retail sale of the beer, ale, wine, and other fruit or malt-based alcoholic beverages.~~

(b) A Class MB-2 licensee may only possess one other class of liquor license other than a Class MB-1 license.

(c) In the event that the licensee intends to make or produce food products in a kitchen for service and human consumption on the Class MB-2 licensee’s premises, such licensee shall comply with all local and state public health codes concerning the preparation and service of such food.

~~In all other respects, the licensee shall comply with the Liquor Control Act and the rules and regulations promulgated by the Illinois Liquor Control Commission Rule 100.430 (Ill. Admin. Code Title 11, Subtitle A, Ch. I, Pt. 100 et seq. [JLS1]).~~

(d) Applicants for Class MB-2 license must either have another class of liquor license other than an Class MB-1 license or apply simultaneously for another class of liquor license other than an Class MB-1 license.

(e) In the event that a Class MB-1 licensee applies for and is granted a Class MB-2 license, the Class MB-2 license fee shall be prorated from the date the Class MB-2 license is issued through the following June 30.

**Section 2.**

Urbana City Code Chapter 14, “Licenses and Permits,” Section 14-7, “Schedule of fees,” subsection (A), “Liquor Licenses,” Part 1, “Alcoholic Liquor Licenses,” is hereby amended by adding a new Subparts “(Y)” and “(Z)” thereto to state as follows:

(y) Class MB-1 – Microbrewery (to manufacture, store, inventory, and sell to other liquor licensees)..... \$ 500.00

(z) Class MB-2 – Microbrewery (to manufacture, store, inventory, sell to other liquor licensees, and sell to general public for consumption on- and/or off-premises in conjunction with separate class of liquor license) .....\$50.00

~~(y) Class MB (microbrewery)~~

~~1. License..... \$ 2,837,500.00~~

**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.

**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 from and after its passage and publication in accordance with Section 1-2-4 of the Illinois Municipal Code.

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 \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

AYES:

NAYS:

ABSENT:

ABSTAINED:

\_\_\_\_\_  
Phyllis D. Clark, City Clerk

**APPROVED BY THE MAYOR** this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Laurel Lunt Prussing, Mayor