



LEGAL DIVISION
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DATE: May 4, 2016
TO: City Council
CC: Mayor Prussing
FROM: James Simon, City Attorney

RE: Amendments to Urbana City Code.

The draft ordinance which accompanies this memorandum is intended to amend Urbana City Code Chapter 1, "General Provisions", Section 1-18, "Minimum fine schedule", and Chapter 3, "Alcoholic Liquors", Article III, "Retail License", Section 3-43(d), "Limitations on number issued", in two respects.

First, the notice requirement of a public hearing prior to considering whether the City Council will increase the number of Class G-2 (gaming hall) liquor licenses is recommended to be decreased from a radius of 500 feet to radius of 250 feet. The Mayor, as Local Liquor Commissioner has recommended this change due to the burden of preparing and providing notices to persons, especially those residing in apartment complexes, within the larger radius.

Second, at the time the City Council amended Chapter 3 to provide for the state-mandated BASSET training of persons who serve alcoholic beverages in open containers and who check identification for appropriate age, no fine structure was included within the said BASSET ordinance. The draft ordinance proposes two separate fines including one for the establishment which allows servers to serve and/or check IDs even though they do not have valid BASSET certifications and the other for a server who serves and checks IDs but does not hold such a certificate.

ORDINANCE NO. 2016-05-038

AN ORDINANCE AMENDING URBANA CITY CODE CHAPTER 1 AND CHAPTER 3

(Notice Requirement for Hearing on Class G-2 Liquor License Application, Fine for BASSET Violation)

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, including the power to regulate 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 has enacted Urbana City Code Chapter 3 which provides for the regulation of establishments which sell and/or serve liquor for on-premises and off-premises consumption and Section 3-41 to designate certain classifications of local liquor licenses and to regulate said licensees; and

WHEREAS, the City Council heretofore has enacted Urbana City Code Section 3-43 to place certain limitations on the number of liquor licenses issued in the City; and

WHEREAS, the City Council amended Urbana City Code Chapter 3, "Alcoholic Liquors", Article III, "Retail License", Section 3-41, "Classification", (Ord. No. 2015-01-004) to create and provide for two classes of liquor license, including Class G-1 (UCC Sec. 3-41(p)) and Class G-2 (UCC Sec. 3-41(q)), which allow establishments which serve alcoholic liquors for on-premises consumption to place video gaming terminals in their respective establishments for their patrons' use;

WHEREAS, the City Council has amended Urbana City Code Chapter 3, "Alcoholic Liquors", Article III, "Retail License", to add Section 3-51 "BASSET training" (Ord. 2016-02-014) which requires that all establishments which serve alcoholic liquor in open containers to assure that the establishment's servers have participated in BASSET training and are in possession of valid BASSET certificates at all times when they are working in the establishment as servers; and

WHEREAS, the City Council deems it appropriate to amend UCC Secs. 3-43(d) to shorten the distance requirement for notice of a pending application for a Class G-2 (gaming hall) liquor license from a 500 foot radius to a 250 foot from the Class G-2 applicant's location; and

WHEREAS, the City Council deems it necessary and appropriate to amend the City's BASSET training ordinance (UCC Sec. 3-51) to provide for penalties for violations of that ordinance; and

WHEREAS, the City Council deems it necessary and appropriate to amend UCC Sec. 1-18 to include fines for violating the City's BASSET training ordinance.

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 3-43, "Limitations on number issued", Sub-Section 3-43(d) shall be and hereby is amended with strike-through indicating language to be deleted and underlining indicating language to be included as follows:

(d) A public hearing shall be conducted before the city council prior to the issuance of any Class G-2 liquor license. Notice of each such public hearing shall be mailed by First Class U.S. Mail to the applicant for the Class G-2 liquor license and those property owners and residents whose property or dwelling units are within two hundred fifty (250) feet of the location of the establishment applying for the Class G-2 liquor license. The notice shall be sent no less than fifteen (15) days and no more than thirty (30) days prior to the date set for the public hearing. Notwithstanding anything to the contrary contained in this subsection (d), any establishment which has been allowed to operate as a gaming hall, prior to the effective date of this subsection, shall be exempt from this subsection.

Section 2.

Urbana City Code Chapter 3, "Alcoholic Liquors," Article III, "Retail License," Section 3-51, "BASSET Training", shall be and hereby is amended with strike-through indicating language to be deleted and underlining indicating language to be added as follows:

a) Definitions.

(1) *Server* shall mean any individual who -

(i) sells, serves, offers to sell, or offers to serve any alcoholic beverage in an open container at retail regardless of where such alcoholic beverage is sold, served, offered for sale, or offered for service;

(ii) checks for identification for the purpose of determining whether an individual is of lawful age to enter an establishment where alcoholic beverages are sold, served, offered for sale, or offered for service in open containers, and/or is of lawful age to purchase alcoholic beverages in open containers at retail; and

(iii) any person who manages or will manage any other person who sells, serves, offers for sale, or offers to serve alcoholic beverages in open containers at retail.

The word "server" shall not include any instructor engaged in training or educating on the proper technique for using a system that dispenses alcoholic beverages.

(2) *BASSET* shall mean beverage alcohol sellers and servers education training.

(3) *BASSET certificate* shall mean a certificate, card or other written evidence issued by a person who is licensed or certified by the State of Illinois Liquor Control Commission to offer a *BASSET* training program and to issue such certificates, cards or other written evidence of success completion of a *BASSET* training program.

(4) *Establishment* shall mean any person which is licensed by the city to sell, serve, offer for sale, or offer for service any alcoholic beverage in an open container at retail.

(b) *BASSET* Certificate requirement.

(1) All servers must successfully complete a State of Illinois Liquor Control Commission licensed or certified *BASSET* training program by July 1, 2016 or within 120 days after the server begins his or her employment with any establishment.

(2) Servers must maintain their respective *BASSET* Certificates in good standing at all times they are engaged in selling, serving, offering to sell, or offering for service alcoholic beverages in open containers at retail and/or checking identifications for entry into and/or service by the establishment at which the server is employed or otherwise works.

(3) A *BASSET* Certificate is the property of the server and the server shall be entitled to take his or her *BASSET* Certificate with him or her should he

or she change employment with one establishment to another establishment.

(4) A server shall not sell, assign or otherwise transfer his or her BASSET Certificate to any other person.

(5) Each server must produce his or her BASSET Certificate upon request of any law enforcement officer.

(6) BASSET Certificates shall be valid for three consecutive years commencing with the date of issuance.

(c) Liquor Licensees.

Each establishment shall -

(1) assure that its servers have valid BASSET Certificates;

(2) obtain and retain a copy of each server's valid BASSET Certificate on the establishment's premises or at such location where it sells or serves alcoholic beverages in open containers at retail; and

(3) make available for inspection copies of all servers' BASSET Certificates upon request of any law enforcement officer.

(d) BASSET Training Programs.

Any person who seeks to offer or who offers a BASSET training program within the boundaries of the city shall be licensed or certified by the State of Illinois Liquor Control Commission and shall be at all times in full compliance with the Liquor Control Act of 1934 and all rules and regulations promulgated pursuant thereto by the State of Illinois Liquor Control Commission concerning the operation of BASSET training programs.

(e) Exceptions to Requirement of BASSET Certificate.

Those parts of Sections 3-40(a)(3), 3-40(b)2) and 3-51 which pertain to BASSET training and the receipt and

possession of BASSET certificates shall not apply to persons who sell, offer for sale, serve, or offer for service any alcoholic beverage in an open container at a special event conducted in the city where a valid Class T-2 liquor license (civic event-current licensee) or Class T-4 liquor license (alcoholic liquor tasting and package alcoholic liquor sales in conjunction with tasting at market, special and festival events) has been issued pursuant to Sections 3-42(b) or 3-42(d) of this Chapter.

(f) Penalties.

(1) Any establishment which is allows a person to work at the establishment as a server without a valid BASSET certificate, which certificate shall be in the possession of the server at all times when serving, shall be subject to a minimum fine as set forth in UCC Section 1-18, "Chapter 3 Alcoholic Liquors", 3-51 "Establishment - BASSET training."

(2) Any server who is found to be working in an establishment as a server without a valid BASSET certificate shall be subject to a minimum fine as set forth in UCC Section 1-18, "Chapter 3 Alcoholic Liquors", 3-51 "Server - BASSET training."

(g) Effective date of ordinance.

This Section 3-51 shall become effective as of July 1, 2016.

Section 3.

Urbana City Code Chapter 1, "General Provisions", Section 1-18, "Minimum fine schedule for certain violations", "Chapter 3 Alcoholic Liquors" shall be and hereby is amended with strike-through indicating language to be deleted and underlined as follows:

3-39	Liquor license required	300.00
3-51	Establishment - BASSET training	300.00
3-51	Server - BASSET training	165.00
3-59	Consumption (and possession on public property-Prohibited	165.00

Section 4.

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 5.

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 6.

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:

ABSTAINED:

Phyllis D. Clark, City Clerk

APPROVED BY THE MAYOR this ____ day of _____, _____.

Laurel Lunt Prussing, Mayor

ORDINANCE NO. 2015-06-038

AN ORDINANCE AMENDING URBANA CITY CODE CHAPTER 1 AND CHAPTER 3

(Notice Requirement for Hearing on Class G-2 Liquor License Application, Fine for BASSET Violation)

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, including the power to regulate 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 has enacted Urbana City Code Chapter 3 which provides for the regulation of establishments which sell and/or serve liquor for on-premises and off-premises consumption and Section 3-41 to designate certain classifications of local liquor licenses and to regulate said licensees; and

WHEREAS, the City Council heretofore has enacted Urbana City Code Section 3-43 to place certain limitations on the number of liquor licenses issued in the City; and

WHEREAS, the City Council amended Urbana City Code Chapter 3, "Alcoholic Liquors", Article III, "Retail License", Section 3-41, "Classification", (Ord. No. 2015-01-004) to create and provide for two classes of liquor license, including Class G-1 (UCC Sec. 3-41(p)) and Class G-2 (UCC Sec. 3-41(q)), which allow establishments which serve alcoholic liquors for on-premises consumption to place video gaming terminals in their respective establishments for their patrons' use;

WHEREAS, the City Council has amended Urbana City Code Chapter 3, "Alcoholic Liquors", Article III, "Retail License", to add Section 3-51 "BASSET training" (Ord. 2016-02-014) which requires that all establishments which serve alcoholic liquor in open containers to assure that the establishment's servers have participated in BASSET training and are in possession of valid BASSET certificates at all times when they are working in the establishment as servers; and

WHEREAS, the City Council deems it appropriate to amend UCC Secs. 3-43(d) to shorten the distance requirement for notice of a pending application for a Class G-2 (gaming hall) liquor license from a 500 foot radius to a 250 foot from the Class G-2 applicant's location; and

WHEREAS, the City Council deems it necessary and appropriate to amend the City's BASSET training ordinance (UCC Sec. 3-51) to provide for penalties for

violations of that ordinance; and

WHEREAS, the City Council deems it necessary and appropriate to amend UCC Sec. 1-18 to include fines for violating the City's BASSET training ordinance.

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 3-43, "Limitations on number issued", Sub-Section 3-43(d) shall be and hereby is amended with strike-through indicating language to be deleted and underlining indicating language to be included as follows:

(d) A public hearing shall be conducted before the city council prior to the issuance of any Class G-2 liquor license. Notice of each such public hearing shall be mailed by First Class U.S. Mail to the applicant for the Class G-2 liquor license and those property owners and residents whose property or dwelling units are within ~~five hundred (500)~~two hundred fifty (250) feet of the location of the establishment applying for the Class G-2 liquor license. The notice shall be sent no less than fifteen (15) days and no more than thirty (30) days prior to the date set for the public hearing. Notwithstanding anything to the contrary contained in this subsection (d), any establishment which has been allowed to operate as a gaming hall, prior to the effective date of this subsection, shall be exempt from this subsection.

Section 2.

Urbana City Code Chapter 3, "Alcoholic Liquors," Article III, "Retail License," Section 3-51, "BASSET Training", shall be and hereby is amended with strike-through indicating language to be deleted and underlining indicating language to be added as follows:

a) Definitions.

(1) *Server* shall mean any individual who -

(i) sells, serves, offers to sell, or offers to serve any alcoholic beverage in an open container at retail regardless of where such alcoholic beverage is sold, served, offered for sale, or offered for service;

(ii) checks for identification for the purpose of determining whether an individual is of lawful age to enter an establishment where alcoholic beverages are sold, served, offered for sale, or offered for service in open containers, and/or is of lawful age to

purchase alcoholic beverages in open containers at retail; and

(iii) any person who manages or will manage any other person who sells, serves, offers for sale, or offers to serve alcoholic beverages in open containers at retail.

The word "server" shall not include any instructor engaged in training or educating on the proper technique for using a system that dispenses alcoholic beverages.

(2) *BASSET* shall mean beverage alcohol sellers and servers education training.

(3) *BASSET certificate* shall mean a certificate, card or other written evidence issued by a person who is licensed or certified by the State of Illinois Liquor Control Commission to offer a *BASSET* training program and to issue such certificates, cards or other written evidence of success completion of a *BASSET* training program.

(4) *Establishment* shall mean any person which is licensed by the city to sell, serve, offer for sale, or offer for service any alcoholic beverage in an open container at retail.

(b) *BASSET* Certificate requirement.

(1) All servers must successfully complete a State of Illinois Liquor Control Commission licensed or certified *BASSET* training program by July 1, 2016 or within 120 days after the server begins his or her employment with any establishment.

(2) Servers must maintain their respective *BASSET* Certificates in good standing at all times they are engaged in selling, serving, offering to sell, or offering for service alcoholic beverages in open containers at retail and/or checking identifications for entry into and/or service by the establishment at which the server is employed or otherwise works.

(3) A BASSET Certificate is the property of the server and the server shall be entitled to take his or her BASSET Certificate with him or her should he or she change employment with one establishment to another establishment.

(4) A server shall not sell, assign or otherwise transfer his or her BASSET Certificate to any other person.

(5) Each server must produce his or her BASSET Certificate upon request of any law enforcement officer.

(6) BASSET Certificates shall be valid for three consecutive years commencing with the date of issuance.

(c) Liquor Licensees.

Each establishment shall -

(1) assure that its servers have valid BASSET Certificates;

(2) obtain and retain a copy of each server's valid BASSET Certificate on the establishment's premises or at such location where it sells or serves alcoholic beverages in open containers at retail; and

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(f) ~~Effective date of ordinance.~~ Penalties.

(1) Any establishment which is allows a person to work at the establishment as a server without a valid BASSET certificate, which certificate shall be in the possession of the server at all times when serving, shall be subject to a minimum fine as set forth in UCC Section 1-18, "Chapter 3 Alcoholic Liquors", 3-51 "Establishment - BASSET training."

(2) Any server who is found to be working in an establishment as a server without a valid BASSET certificate shall be subject to a minimum fine as set forth in UCC Section 1-18, "Chapter 3 Alcoholic Liquors", 3-51 "Server - BASSET training."

~~This Section 3-51 shall become effective as of July 1, 2016.~~

(g) Effective date of ordinance.

This Section 3-51 shall become effective as of July 1, 2016.

Section 3.

Urbana City Code Chapter 1, "General Provisions", Section 1-18, "Minimum fine schedule for certain violations", "Chapter 3 Alcoholic Liquors" shall be and hereby is amended with strike-through indicating language to be deleted and underlined as follows:

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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 5.

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 6.

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:

ABSTAINED:

Phyllis D. Clark, City Clerk

APPROVED BY THE MAYOR this ____ day of _____, _____.

Laurel Lunt Prussing, Mayor