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Memorandum

DATE: September 16, 2004
TO: Mayor Satterthwaite and the Urbana City Council
FROM: Steve Holz
RE: Ordinance Amending the Urbana Liquor Code
(Package Liquor Sales Under T-2 License)

Attached to this memorandum is a proposed ordinance to amend the Urbana Liquor Code to permit package sales of alcoholic liquor under T-2 licenses under certain circumstances. The City presently has 2 temporary types of liquor licenses. One of them is the T-1 license, which allows any holder of any other current license to obtain a special 1-day license. The T-1 license allows that license holder to serve alcohol in an enclosed area immediately adjacent to the currently licensed premises. It is not available to anyone who does not hold another, regular liquor license.

The other type of temporary license is the T-2 license, which is available to civic or charitable organizations. An organization may be granted a T-2 license even though it does not otherwise hold any other type of liquor license.

At present, the T-2 (Civic or Charitable Organization) license does not allow for the sale of package liquor for off-premises consumption. It allows only for sale of drinks for on-premises consumption.

Urbana's Third Annual International Beer Tasting and Chili Cook-off is scheduled to be held on Saturday, October 9, 2004. The City of Urbana is a sponsor of that event. As part of the event, attendees may purchase tickets that allow them to sample from a wide variety of beers. In the past, numerous attendees have requested the ability to purchase packages of beer that they particularly like, in package form for off-premises consumption. The organizers of the event would like to make that possible as part of the event this year. I attach to this memo an email message from Ian Goldberg of the Urbana Business Alliance addressing that request.

Because the T-2 license does not presently allow for package sales of alcohol, it would need to be amended if the City wants to accommodate the request to sell package liquors at the event. I attach an ordinance that would add language to the Urbana Liquor Code allowing such

sales. Note that the expansion of the T-2 license to allow package sales under this proposal would be limited in scope. It would apply only to T-2 events that the City is sponsoring or co-sponsoring; it does not require the City to allow package sales under such license, but rather permits such sales; and it allows the Liquor Commissioner to place conditions and restrictions on such sales.

I set forth below, in full, the current language relating to T licenses, with the proposed new language shown in underlined format in the first paragraph of Section 3-42(b).

If you have any questions or concerns, please give me a call.

Sec. 3-42. Class T licenses.

There shall be two (2) categories of Class T licenses:

T-1 (8-hour, special event--current licensee)

T-2 (civic or charitable organization)

(a) T-1 license (eight-hour, special event--current licensee). Any license holder may obtain a special one-day, eight-hour license which shall permit and allow such license holder to serve alcoholic drinks in an enclosed area immediately adjacent and adjoining and opening onto the premises described in the then current license application on file for the license, provided the licensee submits an application therefor in the manner provided by ordinance fourteen (14) days prior to the date for which the special license shall be used. The T-1 license application shall contain:

(1) A statement of the hours during which liquor is to be sold, provided the hours shall not exceed eight (8) full hours; and provided, however, such hours must not be before or after the hours when liquor might otherwise be sold under section 3-3.

(2) Describe with reasonable certainty the boundary of the adjacent premises where such liquor shall be sold.

(3) The written consent of the owner of such adjacent premises shall be attached to the application. The written consent shall be dated not more than thirty (30) days prior to the application.

(4) Proof of dram shop insurance covering the premises to be utilized with the T-1 license.

No more than one (1) such license shall be issued to any license holder in any one (1) calendar month, nor more than three (3) in a calendar year. The special license, if issued, shall not in any manner be regarded to relieve the license holder of complying with any other requirement of law.

(b) T-2 license (civic or charitable organization). The T-2 license shall permit the retail sale of alcoholic liquor by any bona fide civic, service, charitable, or other not for pecuniary profit organizations for consumption on the premises or within an area specifically designated in such license. **In addition, if the event for which the T-2 license is granted is sponsored in whole or in part by the City of Urbana, the T-2 license may permit such organization to sell alcoholic liquor in package form for off-premises consumption upon such conditions and restrictions as are established for such sales at that event by the Liquor Commissioner.**

(1) A Class T-2 license shall only be valid for a maximum of fourteen (14) days.

(2) An applicant for a Class T-2 license shall submit an application at least fourteen (14) days prior to the date for which the license shall be issued, and show evidence that dram shop liability insurance has been obtained for the period of the license.

(3) The applicant for a Class T-2 license shall state in the application for such license the hours during which alcoholic liquor is to be sold, not inconsistent with section 3-3.

(4) Not more than two (2) Class T-2 licenses shall be issued to any license holder in any one (1) calendar year.

(5) A Class T-2 license, if issued, shall not in any manner be regarded to relieve the license holder of complying with any other requirement of law.

(c) Special conditions applicable to all T Class licenses.

(1) In the application for a T Class license, the application must set forth information so that the boundary of the area in which alcoholic liquor is to be allowed, can be ascertained with reasonable certainty.

(2) If the applicant for any category of Class T license is not the owner of record of the property designated for the site of the event, the owner of record or agent must join in the application; provided, however, this requirement shall not be applicable to an application for a T-2 license involving public right-of-way.

(3) If any T Class license involves serving either alcoholic liquors or food out-of-doors, then the following shall be applicable:

(a) The application shall designate the license applicant as the agent of the owner of record for service of a notice to remove all refuse, litter, debris, garbage and the like for the notice of lien as set forth in subsection (e) below. Only paper or plastic products may be used to serve alcoholic liquor or food;

(b) Provide fencing with at least two (2) means of ingress and egress around the area designated in the license. The egress shall have a ratio of at least forty-four (44) inches for every two hundred (200) occupants and at least one alternate exit of at least forty-four (44) inches;

(c) The Class T license holder shall, within twenty-four (24) hours after the ending time of the event, remove all refuse, litter, debris, garbage and the like from the property used for the event and the abutting public right-of-way;

(d) In the event the Class T license holder does not remove all refuse, litter, debris, garbage and the like in the twenty-four-hour period as required by subsection (c) of this section, the city may, after twenty-four (24) hours' notice, remove all refuse, litter, debris, garbage and the like from the property used for the event. The notice requiring removal shall state that, if the license holder and the owner of record do not remove all refuse, litter, debris, garbage and the like from the designated property within twenty-four (24) hours, the city shall conduct the removal operation. The notice shall also state that the failure of the owner or licensee to remove all refuse, litter, debris, garbage and the like within the twenty-four-hour period as required by such notice, shall be deemed as implied consent for the city to conduct such removal. Such implied consent shall be deemed to form a contract between the city and the owner and the licensee for payment of the costs of the removal of the refuse, litter, debris, garbage and the like. Service of notice shall be made upon the license holder or an agent or employee of the license holder. Service shall be by personal service except that service can not be made by diligent inquiry. Service

may be had by posting the notice on the property. The reasonable cost of removal shall be a lien upon the real property for which the license was issued.

(e) Whenever a bill for the reasonable costs of removal made pursuant to subsection (d) of this section remains unpaid for thirty (30) days after it has been sent to the license holder and the owner of record, the clerk shall file a notice of lien with the county recorder.

(1) The notice of lien shall be filed within ninety (90) days after the cost and expense of the removal has been incurred. The notice shall consist of a sworn statement setting out a description of the real estate sufficient for identification thereof, the amount of money representing the cost and expense incurred or payable for the removal and the date or dates when such cost and expense was incurred by the city. However, the city's lien shall not be valid as to any purchaser whose rights in and to such real estate have arisen subsequent to removal of the refuse, litter, debris, garbage and the like and prior to the filing of such notice, and the city's lien shall not be valid as to any mortgage, judgment creditor or other lienor whose rights in and to such real estate arise prior to the filing of such notice. Upon payment of the cost and expenses by the license holder or the owner of record or persons interested in the property after notice of lien has been filed, the city shall release the lien and the release may be filed or recorded as in the case of filing a notice of lien.

(2) Costs and expenses under this section include, but are not limited to, the actual costs and expenses for the time of city employees, use of equipment and materials concerning the actions of removal pursuant to this section, and transportation to and from the property, title searches or certifications, preparation of lien documents, foreclosure and other related reasonable attorney's expenses.

(3) Whenever the costs and expenses for removal of all refuse, litter, debris, garbage and the like shall remain unpaid for a period of thirty (30) days after the lien is filed, the city may institute proceedings to foreclose the lien, and the real estate may be sold under the order of the court.

(4) Upon payment of the costs and expenses, plus interest at a rate of (9) percent annum from the date thirty (30) days after the bill was sent and after the notice of lien has been filed, the clerk shall file with the recorder a release of lien.

(f) If the payment of the city's cost of removal or abatement of the nuisance is not paid to the city within thirty (30) days of the billing of such costs the city attorney is empowered to commence proceedings in the circuit court seeking a personal judgment from the owner or licensee interested in the premises as noticed in subsection (d) of this section. The action authorized by this subsection shall be in addition to and without waiver of any other remedy. Such action shall be based upon the implied consent for persons to form a contract for the removal or abatement of such nuisances.

(d) Along with the application for any Class T license, the applicant shall submit a security plan for the mayor's approval which shall generally take into consideration the matters set forth in section 3-49(b) below.

From: Ian Goldberg
Sent: Wednesday, September 15, 2004 7:30 PM
To: Holz, Steve
Subject: Urbana's 3rd Annual International Beer Tasting and Chili Cook Off

Steve,

Per our conversation I am writing you in regards to off premise beer sales for the 3rd Annual International Beer Tasting and Chili Cook Off. We are very excited about this years event, as this event has been a tremendous success growing each year. In the past we have had numerous requests from patrons who sample the beers to purchase full bottles to take home with them.

We would like to offer this at this years event, but have been advised this will require a change in the ordinance in regards to the T2 liquor license. We would probably be offering 6 packs "grab bag" style (a mixture of different beers) towards the end of the event.

I would like to request you move forward with the necessary process to have this ordinance changed to allow these sales. If you have any further questions of me, please do not hesitate to call or email.

Thank you for your help,

Ian Goldberg

This Ordinance:
AMENDS the Code of Ordinances.

ORDINANCE NO. 2004-09-128

**AN ORDINANCE AMENDING THE URBANA LIQUOR CODE
(PACKAGE LIQUOR SALES UNDER T-2 LICENSE)**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF URBANA,
ILLINOIS, as follows:

Section 1. That the first paragraph of Section 3-42(b) of the Code of Ordinances of the City of Urbana is amended to read as follows:

(b) T-2 license (civic or charitable organization). The T-2 license shall permit the retail sale of alcoholic liquor by any bona fide civic, service, charitable, or other not for pecuniary profit organizations for consumption on the premises or within an area specifically designated in such license. In addition, if the event for which the T-2 license is granted is sponsored in whole or in part by the City of Urbana, the T-2 license may permit such organization to sell alcoholic liquor in package form for off-premises consumption upon such conditions and restrictions as are established for such sales at that event by the Liquor Commissioner.

Section 2. 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 _____, _____.

Tod Satterthwaite, Mayor

CERTIFICATE OF PUBLICATION IN PAMPHLET FORM

I, Phyllis Clark, certify that I am the duly elected and acting Municipal Clerk of the City of Urbana, Champaign County, Illinois.

I certify that on the _____ day of _____, _____, the corporate authorities of the City of Urbana passed and approved Ordinance No. _____, ("AN ORDINANCE AMENDING THE URBANA LIQUOR CODE (PACKAGE LIQUOR SALES UNDER T-2 LICENSE)") which provided by its terms that it should be published in pamphlet form.

The pamphlet form of the Ordinance was prepared, and a copy of such Ordinance was posted in the Urbana City Building commencing on the _____ day of _____, _____, and continuing for at least ten (10) days thereafter. Copies of such Ordinance were also available for public inspection upon request at the Office of the City Clerk.

DATED at Urbana, Illinois, this _____ day of _____, _____.

(SEAL)

Phyllis D. Clark, CITY CLERK