



CITY OF URBANA
Legal Division
400 S. Vine Street
Urbana, IL 61801
Telephone (217) 384-2464
Facsimile (217) 384-2460

TO: Mayor Laurel Lunt Prussing and Urbana City Council

FROM: Curt Borman, Acting City Attorney

DATE: June 13, 2011

SUBJECT: Consideration of an Ordinance Amending Chapter Three, Section 3-43, of the Urbana City Code (reducing number of Class B, BB, and BBB liquor licenses)

Introduction

This proposed Code amendment will reduce the number of Class B, BB, and BBB liquor licenses issued by the City of Urbana each year from one license for each 1,500 residents to one license for each 2,170 residents.

Background

Section 3-43 of the Urbana City Code establishes limits on the number of annual liquor licenses the City issues based upon the City's population. On June 6, 2011, the City Council passed Ordinance No. 2011-05-042, amending Section 3-43 to decrease the number of Class C licenses from one per each 1,500 inhabitants to one per each 2,750 inhabitants. The proposed amendment similarly will decrease the combined number of Class B, BB, and BBB licenses from one per each 1,500 inhabitants to one per each 2,170 inhabitants.

A Class B license (beer only license) permits a licensee to sell beer only, to be consumed on or off the licensee's premises.¹

A Class BB license (beer and wine only) permits a licensee to sell beer and wine only, to be consumed on or off the licensee's premises.²

A Class BBB license (off-premises only – beer and wine) permits a licensee to sell beer and wine only, to be consumed off the licensee's premises.³

¹ Urbana City Code Section 3-41.

² *Id.*

³ *Id.*

For liquor licensing purposes, the population of the City is determined by the latest motor fuel tax census or federal census.⁴ The most recent federal census indicates that the City has 41,250 residents. Accordingly, this proposed amendment currently will limit the combined total number of Class B, BB, and BBB licenses to 19. At present, the City has granted a total of 19 Class B, BB, and BBB licenses. Therefore, the effect of this ordinance will be to limit the total of these B-class licenses to the number currently in effect, unless the City's population changes. Likewise, the effect of the City Council's recent passage of Ordinance No. 2011-05-042 was to limit the number of Class C licenses to those that are now in existence.

Nevertheless, an alternate procedure is contained in Section 3-43(b) that allows the City to issue more licenses than the numbers established by population whenever the City Council approves a written agreement made with a prospective licensee.⁵ To ensure that members of the public have ample opportunity to provide input before the City issues future liquor licenses based on written agreements, Section 3-43(b) requires the City Council to hold public hearings before licenses are granted, except when considering approval of a development or annexation agreement.

Fiscal Impact

The annual fee for a Class B or BB license is \$2,570. On July 1, 2011, this fee will increase to \$2,621. The annual fee for a Class BBB license is \$3,267. On July 1, 2011, this fee will increase to \$3,332. Approval of the proposed amendment will allow the City to continue to issue 19 B-class licenses per year, based upon the current population. Non-approval of the proposed amendment will allow the City to issue 27 of these licenses per year, based on the current population.

Recommendation

Approve the ordinance amending Chapter Three, Section 3-43, of the Urbana City Code.

⁴ Urbana City Code Section 3-43(a).

⁵ Urbana City Code Section 3-43(b).

**AN ORDINANCE AMENDING CHAPTER THREE, SECTION 3-43, OF THE URBANA
CITY CODE
(reducing number of Class B, BB, and BBB liquor licenses)**

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, the City Council heretofore has adopted Section 3-43 of the Urbana City Code to establish limits on the number of liquor licenses issued in the City; and

WHEREAS, the City Council finds that amending said section will protect the health, safety, and welfare of the public.

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 Three, "Alcoholic Liquors," Section 3-43, "Limitations on number issued," subsection (a), is hereby amended with the underlined text indicating new language and the strikethrough text indicating deletions as follows:

(a) Not more than one (1) Class A license shall be issued in any one (1) year for each one thousand five hundred (1,500) population of the city. Not more than one (1) Class AA license shall be issued in any one (1) year for each three thousand seven hundred fifty (3,750) population of the city. Not more than one (1) Class B, Class BB or Class BBB license shall be issued for each ~~one thousand five hundred (1,500)~~ two thousand one hundred seventy (2,170) population of the city. Not more than one (1) Class C license shall be issued for each two thousand seven hundred fifty (2,750) population of the city. The population of the city for such purposes shall be determined by the latest motor fuel tax census or by the federal census, whichever is later.

Section 2.

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 3.

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 4.

This Ordinance shall be in full force and effect from and after its passage.

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