

AN ORDINANCE
ESTABLISHING A REFUND VALUE FOR
CERTAIN BEVERAGE CONTAINERS

WHEREAS, the City of Urbana is a home rule unit under the 1970 Illinois Constitution and may exercise any power and perform any function pertaining to its government and affairs; and

WHEREAS, the City Council finds that littered beverage containers constitute a danger to the health, safety and welfare of Urbana residents, and destroy the natural beauty of Urbana's streets, parks and other areas; and

WHEREAS, the City Council further finds that the practice of discarding beverage containers is a wasteful one, depleting our natural resources and squandering valuable energy as well as seriously burdening the litter and solid waste collection and disposal programs of the City; and

WHEREAS, suitable landfill sites are in short supply causing higher acquisition costs, and the Illinois Pollution Control Board has required more stringent control of landfills which will result in higher operating costs; and

WHEREAS, the City Council further finds that a deposit has been shown to function as an incentive for the reuse and recycling of beverage containers, thereby alleviating considerable litter and solid waste problems without the need for significant governmental expenditures; and

WHEREAS, the City Council finds and determines that the regulation of litter and solid waste disposal and management is a municipal function and within the public interest.

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

Section 1. Title.

This Ordinance shall be known and may be cited as the "Urbana Beverage Container Ordinance".

Section 2. Definitions.

As used in this Ordinance, unless the context otherwise requires, the following terms have the following meanings ascribed to them:

A. "Beverage Container" means the individual, separate, factory-sealed airtight glass, metal, or plastic bottle, can or carton containing a beverage.

B. "Beverage" means beer, as defined in the Illinois Dram Shop Law, (Ill. Rev. Stats., Ch. 24, § 94.04), or other malt beverages and mineral waters, soda waters, and similar carbonated soft drinks in liquid form and intended for human consumption.

C. "Refillable container" means any beverage container, which container can be washed, sterilized, and refilled for resale of beverages, and for which the dealer receives at least Two Cents (\$.02) for each such container from the dealer's distributor.

D. "Dealer" means every person in the City of Urbana who engages in the sale of beverages in beverage containers to a consumer, including the sale of beverages in beverage containers from a vending machine. Specifically with respect to sales from a vending machine, a "dealer" means the owner or operator of the place of business upon which such a vending machine is located.

E. "Individual Marking" means a label containing a particular dealer's name and address.

F. "Place of business of a dealer" means the location at which a dealer sells or offers for sale beverages in beverage containers.

G. "Sale" means the transfer of title of beverages in beverage containers from a dealer to a consumer for a price for consumption or other use by the consumer off the dealer's premises.

H. "Vending machine" means any mechanical device which sells beverages in beverage containers; all such transactions shall be considered for off-premise consumption.

I. "Clean" means free from excessive residue or matter in or upon the beverage container.

Section 3. Refund Value and Labeling.

A. All beverage containers, except refillable containers, sold or offered for sale in the City of Urbana shall have an individual refund value of at least Ten Cents (\$.10).

B. The refund value required by this section shall be indicated by a label which shall be provided and made available by the City of Urbana at a reasonable price (said price to cover the City's actual costs and handling) to dealers and their agents. The labels indicating such refund shall be securely affixed to each beverage container, except in those instances where two or more such beverage containers are sold or offered for sale in a factory-sealed package, in which such event the dealer shall provide to each person at the time of any such sale an amount of labels equal in number to the number of individual beverage containers within any such factory-sealed package.

C. All vending machines shall, in addition to the labeling requirements as set forth above, provide notice that a deposit for the beverage container is being paid and that a refund will be provided in accordance with this ordinance. *Any such required notice shall be conspicuously posted on the front of any such vending machine.

Section 4. Refund Required to be Made.

Except as provided in Section 5 of this ordinance, a dealer shall not refuse to accept from a person any empty beverage containers of the size, kind, and brand sold by the dealer, or refuse to pay a person the refund value of a beverage container as established by Section 3 of this ordinance.

Section 5. Right to Refuse Refund Under Certain Circumstances.

A. A dealer may refuse to accept from a person any empty beverage container for which such person does not have a label as required by Section 3 of this ordinance.

B. A dealer may also refuse to accept from a person any beverage container which is not clean or for which the required label is clearly defaced.

Section 6. Application for Use of Individual Marking
in Lieu of Label Provided by City.

A. Any dealer who desires to apply for the use of an individual marking in lieu of the label required by Section 3.(B) of this ordinance, must first submit a written application to the City Council stating the grounds therefor. The City Council has the right to request any other information reasonably necessary to determine the merits of the application. Failure to submit such requested information may result in denial of the application.

B. An applicant shall have the burden to provide clear and convincing evidence to demonstrate that the individual dealer has, over a period of not less than three (3) consecutive months, consistently made, given or paid total refunds pursuant to this ordinance for all beverage containers, except refillable containers, in excess of the total deposits collected or received for all beverage containers, except refillable containers, over the same period.

C. In making a determination of the eligibility of an applicant, the City Council, at a public hearing, shall:

(1) Consider the information supplied by the dealer in the application for use of an individual marking system, together with any other evidence the dealer desires to present at such hearing.

(2) Consider prevailing and other practices relating to similar dealers in the community.

(3) Consider other relevant information consistent with the public policy expressed in this ordinance.

D. After the City Council has reviewed the information required as well as any such other information so presented at the public hearing, the City Council shall make the final decision on the application and shall cause its determination to be served in writing to the applicant, indicating that the request has been denied or approved and the reason therefor.

E. Any dealer whose application for the use of an individual marking is so approved by the City Council shall be responsible to design and provide the individual marking of that dealer. Any such individual marking shall clearly indicate the

refund value required by Section 3.(A) of this Ordinance and shall otherwise meet the requirements for the application of labels as provided in Section 3.(B) of (this Ordinance.

F. Any dealer meeting all the requirements of this section may refuse to accept from a person any empty beverage container upon which the individual marking of that particular dealer is not attached.

Section 7. Penalty.

Any dealer found in violation of any provision of this Ordinance, or any person found falsifying the label provided by the City or otherwise supplied by the dealer and later applied to the individual beverage container shall be punished by a fine not exceeding Five Hundred Dollars (\$500.00). For the purposes of this Ordinance, each day of a continuing violation shall constitute a separate offense.

Section 8. Effective Date.

This Ordinance shall be in full force and effect twelve (12) months after its passage and publication as required by law, or twelve (12) months after the passage and publication as required by law of a similar ordinance duly passed and adopted by the City of Champaign, Champaign County, Illinois, whichever is the later date, and shall apply to all beverage containers sold or offered for sale after that date.

This Ordinance is hereby passed by the affirmative vote, the "ayes" and "nays" being called, of a majority of the members of the City Council of the City of Urbana, Illinois, at a regular meeting of said Council on the 18th day of May, 1981.

PASSED by the City Council this 18th day of May, 1981.

Ruth S. Brookens
Ruth S. Brookens, City Clerk

APPROVED by the Mayor this ____ day of _____, 1981.

Jeffrey T. Markland, Mayor

CERTIFICATE OF PUBLICATION

I, RUTH S. BROOKENS, City Clerk, City of Urbana, Illinois,
do herewith certify that I caused the above Ordinance to be duly
published in the Champaign-Urbana News-Gazette on the 16th day of
June, 1981, and a Certificate of Publication is attached
hereto.

Ruth S. Brookens
Ruth S. Brookens, City Clerk



CERTIFICATE OF PUBLICATION IN The News-Gazette

have an individual refund value of at least Ten Cents (\$.10).

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Section 6. Application for Use of Individual Marking in Lieu of Label Provided by City.

A. Any dealer who desires to apply for the use of an individual marking in lieu of the label required by Section 3. (B) of this ordinance, must first submit a written application to the City Council stating the grounds therefor. The City Council has the right to request any other information reasonably necessary to determine the merits of

The undersigned M. J. Duca, THE CHAMPAIGN NEWS-GAZETTE, INCORPORATED, by

its secretary, does hereby certify that said Corporation is the publisher of The News-Gazette and that the same is a daily secular newspaper of general circulation published in Champaign, Champaign County, Illinois, and which said newspaper had been regularly published for more than six months prior to the first publication of the annexed notice; said publisher further certifies that the annexed notice was published once each week for _____ consecutive weeks in said newspaper, namely on the following dates: _____

June 16, A. D. 19 81

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, A. D. 19

Said publisher further certifies that the date of the first paper containing the said notice was on the first date hereinabove set forth, and that the date of the last paper containing the said notice was on the last date hereinabove set forth.

The Champaign News-Gazette, Incorporated

By _____

Secretary

PUBLISHER OF THE NEWS-GAZETTE

Publisher's fee \$

106.68