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Memorandum

DATE: March 10, 2005

TO: Mayor Satterthwaite and the Urbana City Council

FROM: Steve Holz

RE: An Ordinance Amending Chapter 3
("Alcoholic Liquors") of the Code of
Ordinances of the City of Urbana to Add
Provisions Granting the Liquor
Commissioner Authority to Restrict
Alcoholic Sales During Potential Periods of
Civil Unrest or Celebratory Riots

Because of the performance of the University of Illinois men's basketball team this season, and based on the experience of other university communities, the police departments of the University of Illinois, the City of Champaign, and the City of Urbana have been discussing the possible need to prevent injuries and property damage from so-called "celebratory rioting". These discussions have lead to the conclusion that it would be useful to give the local liquor commissioners the ability to impose temporary restrictions on liquor licensees to help prevent alcohol-related unrest and injury to person and property. Language has been drafted granting that type of authority for local liquor commissioners.

The administration of the City of Champaign recently presented a report to the City Council of the City of Champaign providing background information and discussing options. Because the concerns are much the same for Urbana as they are for the City of Champaign, and because Champaign's report provides a good, comprehensive discussion of the matter, I simply attach a copy of the City of Champaign report for your review in connection with this proposal.

Attached to this memorandum is a proposed ordinance that would grant the Urbana Local Liquor Commissioner authority that is similar to, although not quite

identical to, the City of Champaign language. The differences can be summarized as follows:

First, certain of the restrictions that could be imposed in Champaign have no meaning in Urbana because of differences in the underlying liquor codes. For example, Champaign's ordinance would allow Champaign's liquor commissioner to impose additional Class K (Keg) permit requirements and to require "Adult Responsibility Forms" to be completed for sales in excess of certain quantities of alcohol. Because Urbana does not have keg permits or Adult Responsibility Forms, the attached proposal for the City of Urbana does not contain those provisions.

Second, Champaign's ordinance is phrased in terms of "emergencies". As a matter of semantics, it seems a better idea to call the authority a "temporary preventative" authority, rather than an "emergency" authority, as the point is to try to prevent emergencies from occurring, rather than simply to react to emergencies.

The actual text of the proposed addition to the Urbana Liquor Code, Section 3-49, is set forth in full in the attached proposed ordinance.

cc: Bruce Walden
Chief Adair

REPORT TO THE CITY COUNCIL

FROM: Steven C. Carter, City Manager

DATE: March 1, 2005

SUBJECT: Authority of Liquor Commissioner - Restricting Alcohol Sales During Potential Periods of Civil Unrest or Celebratory Riots SS 2005-017

A. Introduction: This report discusses increasing the Liquor Commissioner's authority to issue orders to restrict alcohol sales during periods of anticipated civil unrest, including celebratory riots and similar types of events.

B. Recommended Action: The Administration recommends that Council direct staff to prepare an amendment to the liquor code which would authorize the Liquor Commissioner to restrict alcohol sales during periods of anticipated civil unrest as a preventive measure to protect the life and property of citizens and businesses.

C. Background:

1. Celebratory Riots. Celebratory riots have typically followed major sporting events where a team has participated in a national championship or similar contest. While they are not commonplace, they have grown in number in recent years. The more notable riots occurred at East Lansing when Michigan State won the national basketball championship a few years ago and again in the fall of 2003 after the Ohio State – Michigan football game. In Boston, similar problems were encountered when the Red Sox won the World Series this past year. In all of these events, significant property damage and personal injuries have occurred, in addition to a tragic death in Boston. One common element in all of these events is excessive alcohol consumption. While alcohol is not necessarily the driving force behind these violent actions, it certainly is an aggravating factor. Other common characteristics have included dumpster fires, street fires, overturned vehicles and conflicts with police and public safety personnel. The goal of the public safety departments is to keep anything like this from happening here. A UI task force involving City staff members has been discussing plans for responding to potential situations in Urbana-Champaign.

Historically, Urbana-Champaign has not experienced the types of rioting that has occurred in other locations relative to the outcome of sporting events. However, with several athletic teams ranked very high nationally and the basketball team ranked #1 for several weeks, it seems that there may be an increased risk for disturbances to occur should these teams continue to be successful. While a riot is not expected to occur, it is prudent to plan for this type of event so that injuries and property damage can be minimized.

2. Previous Restrictions on Alcohol. During the 1980's, Halloween became one of those events that included excessive alcohol consumption, large crowds and an increasing

potential for injuries and property damage. The event peaked in 1985 when a student was permanently injured after being hit with a thrown beer bottle. Restrictions on the sale of alcohol products were critical to the successful “phase-out” of this dangerous event. Alcohol consumption was not eliminated, but was restricted to certain areas under additional restrictions. Restrictions were applied within the campus area and included requirements for serving of alcoholic drinks in plastic cups, restrictions on the size of drinks served, restrictions on package sales for specific time periods and aggressive enforcement of restrictions on the consumption of alcohol in the public right of way. These steps were effective in allowing a degree of “celebration” while maintaining a safer environment for participants. These alcohol restrictions were limited geographically as well as by day and time of day and were only used as needed to keep the Halloween event from turning violent. Licensees were very cooperative with the City in following these restrictions and licensees also played a major role in planning the event controls. Attachment A highlights the types of restrictions being considered.

3. Liquor Advisory Commission Recommendations. Normally, the Liquor Advisory Commission would make a formal recommendation to the City Council on a proposed ordinance that involved alcohol restrictions such as the one proposed. While the LAC discussed this briefly at a previous meeting, it was unable to meet to make a formal recommendation due to a lack of a quorum. The LAC scheduled a special meeting on February 15 for the purpose of discussing and making a formal recommendation, but the meeting was canceled due to a lack of a quorum. There has not been ample time for the LAC to meet prior to the Council Study Session to discuss the ordinance or to make a recommendation to the City Council.

4. Cooperative Efforts by Public Safety Departments. Champaign, Urbana and University Police and Fire departments have worked closely together to plan strategies to minimize threats to public safety and property damage. The coordination between the various public safety departments, including the Illinois State Police, has been a key component of this planning effort.

D. Alternatives:

1. Direct staff to prepare the recommended amendments to the liquor code authorizing the Liquor Commissioner to place restrictions on the sale of alcohol as proposed.
2. Direct staff to prepare amendments to the liquor code authorizing the Liquor Commissioner to place restrictions on the sale of alcohol during periods of anticipated civil unrest as revised.
3. Do not approve amendments to the liquor code authorizing the Liquor Commissioner to place restrictions on the sale of alcohol during periods of anticipated civil unrest.

E. Discussion of Alternatives:

Alternative 1 would direct staff to prepare amendments to the liquor code to allow the Liquor Commissioner to place restrictions on the sale of alcohol during periods of anticipated civil unrest.

a. Advantages

- Restrictions are temporary and would only apply during the time period of the anticipated violence.
- Restrictions would limit the sale of beverages in glass bottles and metal cans that could become projectiles in a large group gathering.
- Restrictions were successful during the phase out of the Halloween event.
- Restrictions would be provided to all licensees in writing prior to taking effect.
- Restrictions would help public safety personnel limit the number of large gatherings where alcohol would be served in beer kegs.
- Restrictions do not close any business completely.
- Restrictions can be applicable to similar events where civil unrest is anticipated.
- Restrictions are temporary and cannot be effective for longer than 48 hours.

b. Disadvantages

- It is not certain that any civil unrest will actually occur.
- Champaign has not experienced previous occurrences of civil unrest at a scale that would cause extensive property damage or personal injury since 1985.
- Council may wish to strengthen or weaken the proposed ordinance.
- Additional administrative work to implement the proposed ordinance.
- Violence could still occur even if additional restrictions are enacted.
- Liquor Advisory Commission has not been able to make a formal recommendation on the proposed ordinance.

Alternative 2 would allow Council Members to revise the proposed restrictions on the sale of alcohol to better reflect their desires.

a. Advantages

- Allows Council to establish temporary restrictions on alcohol sales as they see fit.
- Council could extend the time periods for the restrictions proposed or they could shorten or lengthen the notice to licensees.
- Council could add or delete restrictions on the sale of alcohol at these types of events.

b. Disadvantages

- More stringent restrictions may encourage a negative response from the public or the licensees.
- Lighter restrictions may not have the effect of deterring negative behaviors.
- Additional administrative work to implement new ordinance.
- Violence could still occur with additional restrictions enacted.
- Liquor Advisory Commission has not been able to make a formal recommendation on the proposed ordinance.

Alternative 3 would mean that Council would not provide additional authority to the Liquor Commissioner regarding restricting the sale of alcohol at the proposed times.

a. Advantages

- No administrative costs to implement ordinance amendments.
- No previous events of a celebratory nature have been experienced in Champaign in recent years.
- Licensees would operate under existing alcohol restrictions.

b. Disadvantages

- Potential for celebratory violence exists.
- Without proposed restrictions, violence that may occur could be more severe than if the restrictions are enacted

F. Budget and Staffing Impact. The proposed ordinance would require added staff time to implement any of the temporary restrictions that may be ordered by the Liquor Commissioner. This typically would require 4-8 hours of staff time to prepare the orders and to hand deliver them to the liquor licensees. Typically, the proposed restrictions would be implemented for the campus area licensees which number approximately 20. The proposed restrictions could be applied to other areas, but staff does not believe that is likely. If so, it would require 16-20 hours of staff time to accomplish the notifications to licensees.

There would be no direct budget impact of the proposed ordinance. It is impossible to estimate whether violence occurring without such an ordinance in place would result in less damage to public and private property. However, staff presumes that the ordinance would serve to minimize these types of damages as well as the probability of personal injury.

Public safety employees will be assigned in appropriate numbers to ensure the public's safety, regardless of Council action on the proposed ordinance amendment. Both police and fire personnel are scheduled to handle whatever issues may arise.

Prepared by:

Paul A. Berg

Assistant City Manager/

Deputy Liquor Commissioner

Attachments: Attachment A – Proposed Ordinance Changes Allowing for Emergency Orders by

Liquor Commissioner

j:cou/liquor/rptc/celebratory riots.3.2.05

COUNCIL BILL NO. 2005-

AN ORDINANCE

AMENDING SECTION 5-91 OF THE CHAMPAIGN MUNICIPAL CODE, 1985
(Alcoholic Beverages - Powers and Duties of Commissioner)

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

Section 1. That Section 5-91, entitled "Powers and duties of commissioner", of the Champaign Municipal Code, 1985, is hereby amended to read as follows:

"Sec. 5-91. Powers and duties of commissioner.

The Commissioner shall have the following powers and duties:

- (1) To grant licenses, to suspend or revoke licenses for cause, to impose fines upon licenses for cause, and to hold hearings on such matters and enter modified orders thereon.
- (2) To enter into and to authorize any law enforcement officer to enter at any time upon any premises licensed pursuant to this Chapter to determine whether any of the provisions of "an Act relating to alcoholic liquors" (Liquor control act, Ill. Rev. Stat. Ch. 43, § 93.9 et seq.) or of this Code, or any rules and regulations adopted by the State Liquor Control Commission or by the Commissioner have been or are being violated.
- (3) To exercise all the powers, functions and duties which now or hereafter may be granted to him/her by "an Act relating to alcoholic liquors" (Liquor control act, Ill. Rev. Stat. Ch. 43, § 93.9 et seq.), regulations of the State Liquor Control Commission or by this chapter, to examine or cause to be examined under oath any applicant for a liquor license or for a renewal thereof of any license upon whom notice of hearing has been served, to hear testimony and take proof for his/her information in the performance of the Commissioner's duties, and at such time to examine the premises in connection therewith.
- (4) To receive the complaint of any resident of the City and to investigate such complaint or to investigate upon his/her own initiative any alleged violation of any law of the United States relating to the sale of alcoholic liquor or any of the provisions of "an Act relating to alcoholic liquors" (Liquor control act, Ill. Rev. Stat. Ch. 43, § 93.9 et seq.), or of this Code or any applicable rules and regulations adopted by the State Liquor Control Commission or by the Commissioner.
- (5) To make, promulgate, alter, amend, repeal and enforce such reasonable rules and regulations relating to the administration and enforcement of the provisions of this chapter as may be deemed by the Commissioner to be in the best interest of the City. The Commissioner shall forward such rules to the City Council and the licensees at least fourteen (14) days prior to the effective time and date. Upon the written request of two (2) or more Council Members prior to the effective time and date, the rules shall be subject to review by the City Council. After such a written request, such rules shall not be effective until considered by the Council.

The rules shall go into effect after such review unless disapproved by a vote of at least five (5) members.

- (6) To receive local license fees and pay over the same forthwith to the City.
- (7) To examine or cause to be examined, under oath, any applicant for a local license or for a renewal thereof, or any licensee upon whom notice of revocation or suspension has been served in the manner as provided by law or ordinance; to examine or cause to be examined the books and records of any such applicant or licensee; to hear testimony and take proof for his/her information in the performance of his/her duties and for such purpose to issue subpoenas.

(8) To appoint a hearing officer to hold hearings to take evidence on whether or not to suspend or revoke licenses for cause or to impose fines upon licensees for cause; to hold hearings on such matters; and to make recommendations as to findings of fact and penalties to be imposed. The Commissioner shall review the evidence and recommendations of the hearing officer and shall adopt, modify or reject those recommendations.

(9) Emergency powers.

(a) The Commissioner shall have the authority to impose an emergency order containing one or more of the restrictions set forth herein upon the operation of retail liquor license holders in a geographic area described in the order, for a period of up to 48 hours, when the Commissioner has a reasonable belief that there may be a threat to the public health, safety and welfare from celebratory activities by members of the public in response to the University of Illinois' participation in a noteworthy athletic event, or from some other form of anticipated public assembly or civil unrest. Factors justifying a reasonable belief in the need for an emergency order entered under this subsection may include, among other factors, the City of Champaign's or other cities' experiences with civil unrest under similar circumstances.

(b) The Commissioner may include one or more of the following restrictions in any emergency order entered pursuant to this subparagraph (9).

Restrictions for on premises consumption of alcoholic beverages:

- i. Hours and days of operation
- ii. Size of drinks
- iii. No drinks served in glass and/or metal containers

Restrictions for off premises consumption

- i. Hours and days of operation
- ii. No beer, wine or other alcoholic liquor sold in glass and/or metal containers of less than one liter in volume
- iii. Licensee shall require proof of a valid class K keg permit for keg sales in excess of one keg prior to the sale

iv. Licensee shall require adult responsibility forms be completed for any sale in excess of the following quantities:

-168 or more 12 ounce (or greater) containers of beer or malt beverage

-24 or more 1 liter containers (or greater) of distilled spirits or wine

(c) An emergency order entered pursuant to this section shall be in writing and shall, at a minimum, contain the following information:

- i. The basis for the emergency order.
- ii. A description of the geographic area that is affected by the order.
- iii. A description of the types of liquor licenses that are covered by the order.
- iv. The dates and times during which the order will be in effect.
- v. A description of each of the aforementioned restrictions that are being imposed during the time the order is in effect.

(d) An emergency order entered pursuant to this section shall be filed with the City Clerk as soon as is practicable, and shall be served upon each of the retail liquor license holders that will be regulated by said order in one or more of the following ways:

i. By personal delivery upon an agent of the licensee at least 24 hours prior to the time the order goes into effect.

ii. By first class mail, addressed to the licensee at the licensee's premises, deposited in the U.S. Mail at least three days, excluding weekends and holidays, before the order goes into effect.

iii. If service by the means set forth in i or ii above is impractical due to the exigencies of the circumstances, then notice shall be provided in a manner reasonably calculated to inform the licensees regulated by said order.

(e) No licensee shall violate the terms of an emergency order issued pursuant to this subsection.

Section 2. That this ordinance shall be effective on March 15, 2005.

Section 3. That the City Clerk is hereby directed to publish this ordinance immediately after passage.

Section 4. If any section, paragraph or provision of this ordinance is held to be invalid or unenforceable, such invalidity or unenforceability of such section, paragraph or provision shall not affect any of the remaining provisions of this ordinance, or the provision of the Code.

Section 5. The provisions of this ordinance shall take precedence and be interpreted as superseding any other ordinance or statutes in conflict with the provisions of this ordinance.

COUNCIL BILL NO. 2005-

PASSED: APPROVED: _____

Mayor

ATTEST: _____

City Clerk

APPROVED AS TO FORM:

City Attorney

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This Ordinance:
AMENDS the Code of Ordinances.

ORDINANCE NO. 2005-03-040

An Ordinance Amending Chapter 3 ("Alcoholic Liquors") of the Code of Ordinances of the City of Urbana, to Add Provisions Granting the Liquor Commissioner Authority to Restrict Alcohol Sales During Potential Periods of Civil Unrest or Celebratory Riots

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

Section 1. That Section 3-49 of the Code of Ordinances of the City of Urbana is amended to add a new subparagraph (d), which shall read as follows:

(d) Temporary preventative powers.

(1) The Local Liquor Commissioner shall have the authority to impose a temporary preventative order containing one or more of the restrictions set forth herein upon the operation of retail liquor license holders in a geographic area described in the order, for a period of up to 48 hours, when the Commissioner has a reasonable belief that there may be a threat to the public health, safety and welfare from celebratory activities by members of the public in response to the University of Illinois' participation in a noteworthy athletic event, or from some other form of anticipated public assembly or civil unrest. Factors justifying a reasonable belief in the need for a temporary preventative order entered under this subsection may include, among other factors, the City of Urbana's or other cities' experiences with civil unrest under similar circumstances.

(2) The Commissioner may include one or more of the following restrictions in any temporary preventative order entered pursuant to this subparagraph (d):

(a) Restrictions for on premises consumption of alcoholic beverages:

- i. Hours and days of operation
- ii. Size of drinks
- iii. No drinks served in glass and/or metal containers

(b) Restrictions for off premises consumption:

- i. Hours and days of operation
- ii. No beer, wine or other alcoholic liquor sold in glass and/or metal containers of less than one liter in volume

(3) An temporary preventative order entered pursuant to this section shall be

in writing and shall, at a minimum, contain the following information:

- (a) The basis for the temporary preventative order.
 - (b) A description of the geographic area that is affected by the order.
 - (c) A description of the types of liquor licenses that are covered by the order.
 - (d) The dates and times during which the order will be in effect.
 - (e) A description of each of the aforementioned restrictions that are being imposed during the time the order is in effect.
- (4) A temporary preventative order entered pursuant to this section shall be filed with the City Clerk as soon as is practicable, and shall be served upon each of the retail liquor license holders that will be regulated by said order in one or more of the following ways:
- (a) By personal delivery upon an agent of the licensee at least 24 hours prior to the time the order goes into effect.
 - (b) By first class mail, addressed to the licensee at the licensee's premises, deposited in the U.S. Mail at least three days, excluding weekends and holidays, before the order goes into effect.
 - (c) If service by the means set forth in (a) or (b) above is impractical due to the exigencies of the circumstances, then notice shall be provided in a manner reasonably calculated to inform the licensees regulated by said order.
- (5) No licensee shall violate the terms of a temporary preventative order issued pursuant to this subsection.

Section 4. 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. _____, entitled "*An Ordinance Amending Chapter 3 ("Alcoholic Liquors") of the Code of Ordinances of the City of Urbana, to Add Provisions Granting the Liquor Commissioner Authority to Restrict Alcohol Sales During Potential Periods of Civil Unrest or Celebratory Riots*" 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 Clark, CITY CLERK