

ORDINANCE NO. 2008-04-029

**AN ORDINANCE AMENDING CHAPTER 3, "ALCOHOLIC BEVERAGES",
OF THE CITY OF URBANA CODE OF ORDINANCES**

(TEMPORARY LICENSES)

WHEREAS, the City of Urbana has a population of more than 25,000 and is, therefore, a home rule unit under subsection (a) of Section 6 of Article VII of the Illinois Constitution of 1970; and

WHEREAS, the City is empowered to regulate the sale of alcoholic beverages, particularly on public lands; and

WHEREAS, it is in the best interests of City of Urbana to foster a vibrant civic and cultural atmosphere; and

WHEREAS, the City wishes to encourage the promoters to plan and run outdoor festivals within its corporate limits; and

WHEREAS, the City's current liquor ordinance does not allow private, for-profit entities/promoters which already possess a City-issued liquor license to receive a temporary liquor license for their events that are not held on property that is contiguous with the license-holding entity's property; and

WHEREAS, the City's current liquor ordinance does not allow private, for-profit entities who are not current license holders to receive a temporary liquor license; and

WHEREAS, the issuance of said temporary licenses for festivals approved by the City Council will allow private, for-profit entities/promoters to bring such festivals to the City of Urbana;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF URBANA, ILLINOIS, that Chapter 3 of the Urbana Code of Ordinances shall be, and hereby is, amended as follows:

Section 1.

§3-42 of the Code of Ordinances shall be amended as follows:

Sec. 3-42. Class T licenses.

There shall be ~~two (2)~~ three (3) categories of Class T licenses:

T-1 (Special event--current licensee)

T-2 (civic or charitable organization)

T-2 (Private promoter of festivals)

(a) T-1 license (special event--current licensee). Any license holder may obtain a special 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. A Class T-1 license shall be valid for a maximum of two (2) days. The T-1 license application shall contain:

- (1) A statement of the hours during which liquor is to be sold, not inconsistent with 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.

- (1) A Class T-2 license shall be valid for a maximum of two (2) 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. Licenses issued for events that the city co-sponsors shall not count toward this limit.

(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) T-3 license (Private for-profit festival promoter). The T-3 license shall permit the retail sale of alcoholic liquor by any bona fide private for-profit promoter of outdoor festivals, held within the City's corporate limits, for consumption on the premises or within an area specifically designated in such license. For purposes of this Section, a festival shall be defined as special event, normally held only once per calendar year, which is held primarily outdoors; is open to the public; and has been designated as an approved festival by the City Council.

(1) The T-3 license shall be valid for a maximum of two (2) days.

(A) If any festival lasts less than two (2) days, then the T-3 license shall be valid only for the duration of said festival.

(B) In no case shall alcoholic liquor be sold by the T-3 license holder outside of the hours designated in the T-3 license application. Said hours shall not be inconsistent with the limitations in §3-3 of this Chapter. The City of Urbana Liquor Commissioner or his/her designee shall have sole discretion to limit hours of alcoholic liquor sales during any outdoor festival.

(2) The festival promoter shall apply for the T-3 license no later than 120 days prior to the date of the festival.

(3) No more than two (2) T-3 licenses shall issue to any current license holder or new applicant in any calendar year.

(4) A Class T-3 license, if issued, shall not in any manner be regarded to relieve the license holder of complying with any other requirement of law.

(5) No more than one (1) T-3 license shall issue per calendar month, and said license shall issue on a first come basis.

(6) The fee for a T-3 license shall be \$5,000.00 or 5% of the gross receipts for the event, whichever shall be greater.

(A) Payment of such fee shall be made the Comptroller of the City by the license holder within ten (10) business days from the last day of the festival.

(B) Payment of either the \$5,000.00 or 5% of the gross receipts shall be accompanied by an accounting of the gross receipts and a certification by the license holder of the accuracy of said accounting.

(e) (d) 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;

(e) 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.

(f) 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 nine (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)~~ (g) 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)~~ (h) 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.

Section 2.

These amendments shall take full effect upon passage by the City Council, except that, the fee provisions and 120-day application provision for T-3 licenses shall not operate if in conflict with agreements between a promoter and the City, previously negotiated after January 1, 2008 but before passage of these amendments. However, it shall take full effect upon all T-3 license applicants after any such agreements expire.

PASSED by the City Council this _____ day of _____, 2008.

AYES:

NAYS:

ABSTAINS:

Phyllis D. Clark, City Clerk

APPROVED by the Mayor this _____ day of _____, 2008.

Laurel Lunt Prussing, Mayor