



## DEPARTMENT OF COMMUNITY DEVELOPMENT SERVICES

Planning Division

### m e m o r a n d u m

**TO:** Mayor Laurel Lunt Prussing

**FROM:** Elizabeth H. Tyler, Ph.D., FAICP, Director

**DATE:** October 22, 2015

**SUBJECT:** Amendment to Chapter 3 (Alcoholic Liquors) and Chapter 14 (Licenses and Permits) of the Urbana Code of Ordinances

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### Introduction

At their September 21, 2015 meeting, the Urbana City Council approved Ordinance No. 2015-09-99 which amended the Zoning Ordinance by adding a definition and use provisions for “microbrewery” in Articles II and V, respectively. The changes were intended to address a type of small-scale alcoholic beverage manufacturing that also offers retail sales and on-site consumption. The City’s Code of Ordinances does not currently contain an appropriate category within the liquor code (Section 3-41) for retail liquor licensing of an establishment to produce and sell its own beer or wine. With the recent definition and allowance of microbreweries in the Zoning Ordinance and pending requests to locate such facilities in Urbana, an amendment to the Urbana Code of Ordinances regarding liquor licensing and fees is desirable.

### Background

The Illinois Liquor Control Act of 1935 (235 ILCS 5/1-1 et seq.) provides that the City Council “shall have the power by general ordinance or resolution to determine the number, kind and classification of [liquor] licenses, for sale at retail of alcoholic liquor ... and the amount of the local licensee fees to be paid for various kinds of licenses to be issued ...” Brackets supplied. The Mayor is designated as the Local Liquor Commissioner. 235 ILCS 5/4-2 and is charged with “the administration in [her jurisdiction] ... of the appropriate provisions of [the Illinois Liquor Control Act of 1934] and such ordinances and resolutions relating to alcoholic liquor as may be enacted.”

At their May 20, 2015 meeting, in Case ZBA-2015-C-04, the Urbana Zoning Board of Appeals approved a Conditional Use Permit for a microbrewery at 208 W. Griggs Street under the use category “Confectionary Products Manufacturing and Packing,” which at the time was the most similar use to a microbrewery in the Zoning Ordinance. In response to the lacking of microbrewery as a defined use in the Zoning Ordinance, staff added a definition and use provisions in the Zoning Ordinance amendment omnibus that was later approved by the City Council. At the September 14, 2015, meeting of the Committee of the Whole, Council members

discussed the omnibus text amendments and whether City regulations were suitable to accommodate the proposed microbreweries. Consequently, the use and definition for microbrewery was added to the Zoning Ordinance in a text amendment. A second potential microbrewery owner spoke before the Council in favor of allowing microbreweries as a positive commercial activity in the city.

With two proposed businesses meeting the Zoning Ordinance’s newly defined use of microbrewery, it is appropriate for a new liquor license category and associated fee to be considered to provide accommodation for these business with proper regulation.

## **Proposed Amendment**

The language for the proposed new liquor license category (Class MB) in Section 3-41 in the Code of Ordinances is attached and would allow the licensee to manufacture up to 472,500 gallons (15,000 barrels) per year of beer, ale, wine, and other fruit- or malt-based alcoholic beverages on the premises. The licensee would also be permitted to provide tastings, sell the product to distributors and retailers, and to obtain a separate license to sell for consumption on- or off-premises. The potential microbreweries have expressed an interest in brewing hard cider and/or mead in the future because of their potentially growing markets. The proposed language includes production of “wine, and other fruit- or malt-based alcoholic beverages” to allow for the production of these related beverages.

The Class MB license would allow for the production, consumption, and sales of beer and other fruit- or malt-based alcoholic beverages in accordance with federal laws for microbreweries and the Illinois Liquor Control Act of 1934 (235 ILCS 5/). The proposed microbreweries within the City would qualify for the proposed license based on their information provided to city staff.

The Class MB license would allow the proposed breweries to carry out the necessary aspects of the proposed businesses. The limit of 15,000 barrels would accommodate the stated capacity of both breweries for the near future and be consistent with the Zoning Ordinance definition of “microbrewery.” Both breweries would be allowed to bottle or can their own products and store it within their facilities. They would also be allowed to self-distribute their products as their proprietors have expressed a strong interest in doing so. Furthermore, they would be allowed to produce alcoholic beverages that are not malt-based, such as mead and hard cider. The license would also allow the breweries to offer retail sales, tastings, and on-site consumption of liquor which would be an essential element of their marketing and sales. The breweries would be allowed the flexibility to operate within their premises like that of any other minimally intensive use involving food and beverage manufacturing within the 15,000 barrel-per-year production limits.

The language for the proposed addition to the schedule of fees in Section 14-7 in the Code of Ordinances reads as follows:

- (y) Class MB (microbrewery)
  - 1. License..... \$ 2,837.00

The proposed fee for the Class MB license category is identical to the fees for the City's Class B and Class BB licenses which allow for retail sales of beer or wine with consumption allowed on or off the premises. The proposed Class MB license would allow practices similar to those under the Class B and Class BB licenses and therefore would warrant similar fees.

### **Fiscal Impact**

Each of the proposed microbreweries at 208 W. Griggs Street and 1901 S. High Cross Road will make significant improvements to currently vacant space within existing buildings. Conservative staff estimates of construction costs of those improvements result in the potential combined increased equalized assessed value (EAV) of approximately \$54,000, yielding an additional \$733 annually in City property tax. License fees, food and beverage taxes, and package liquor taxes will also be collected once operating but cannot be estimated with any certainty at this early stage in the process.

### **Recommendation**

Staff recommends that the City Council Committee of the Whole forward the proposed ordinance amendment to the Urbana City Council with a recommendation for approval.

### **Attachments:**

Exhibit A: Proposed Microbrewery Liquor License Ordinance

cc: Tom Sheehan  
Matt Riggs

**ORDINANCE NO. 2015-10-107**

**AN ORDINANCE AMENDING URBANA CITY CODE CHAPTER THREE, SECTION 3-41  
AND CHAPTER FOURTEEN, SECTION 14-7, REGARDING SCHEDULE OF FEES  
SUBSECTION a - "LIQUOR LICENSES"**

**(Establishing Class MB (microbrewery) liquor license and fee)**

**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 the manufacture, sale, and consumption of liquor for the protection of the public health, safety, and welfare; and

**WHEREAS**, Section 4-1 of the Liquor Control Act of 1934, 235 ILCS 5/4-1, gives the city council in every city the power by general ordinance or resolution to establish such regulations and restrictions upon the issuance of and operations under local liquor licenses not inconsistent with law as the public good and convenience may require; and

**WHEREAS**, the City Council heretofore has enacted Urbana City Code Section 3-41 to designate certain classifications of local liquor licenses and to regulate said licenses; and

**WHEREAS**, the City Council seeks to regulate the proposed businesses which seek permission to allow retail sales and on-site consumption of their on-site manufactured liquor; and

**WHEREAS**, the City Council finds that the public health, safety, and welfare will best be protected by amending Urbana City Code Section 3-41 to establish a new class of liquor license entitled Class MB - to allow the retail sale and service of liquor produced on the premise of the establishment; and

**WHEREAS**, the City Council heretofore did on the 21st day of September, 2015, pursuant to Ordinance No. 2015-09-099, amend Articles II and V of the Urbana Zoning Ordinance establishing a definition and use provisions for "microbrewery"; and

**WHEREAS**, the City Council heretofore did on the 1st day of June, 2015, pursuant to Ordinance No. 2015-04-041, adopt Urbana City Code Section 14-7, establishing a schedule of fees for the various licenses, permits, fines, and other fees required under the Code; and

**WHEREAS**, the City Council finds that the best interests of the City are served by making limited amendments to that schedule of fees, pursuant to Urbana City Code Section 14-7(y), concerning microbreweries.

**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 3, "Alcoholic Liquors," Article III, "Retail License," Section 3-41, "Classification," is hereby amended by adding a new subsection (r) thereto to read as follows:

(r) Class MB licenses (microbrewery) shall permit the licensee to:

- (1) Manufacture beer, ale, wine, and other fruit- or malt-based alcoholic beverages on the premises of the licensee in quantities no more than 472,500 gallons (15,000 barrels) per year;
- (2) Sell licensee's manufactured beer, ale, wine, and fruit- or malt-based alcoholic beverages to importing distributors and distributors;
- (3) Sell to other liquor licensees which are licensed to sell at retail alcoholic beverages including beer, ale, wine, and other fruit- or malt-based alcoholic beverages;
- (4) Obtain a single but separate license which allows for the licensee to sell beer, ale, wine, and other fruit- or malt-based alcoholic beverages at retail and for consumption on the premises and off the premises for which the retail license is issued which shall be the same premises as where the licensee manufactures its beer, ale and other fruit- or malt-based alcoholic beverages;
- (5) Taste or sample the beer, ale, wine, and other fruit- or malt-based beverages which the licensee manufactures on the premises licensed for retail sales of the beer, ale and other fruit- or malt-based beverages so manufactured on the premises;
- (6) Store or inventory on the licensed premises such beer, ale, wine, and other fruit- or malt-based alcoholic beverages manufactured by the licensee;
- (7) Sell goods and products, other than alcoholic beverages, incident to the manufacture and retail sale of the beer, ale, wine, and other fruit- or malt-based alcoholic beverages.

In the event that the licensee intends to make or produce food products in a kitchen for service and human consumption on the licensee's premises, such licensee shall comply with all local and state public health codes concerning the preparation and service of such food.

In all other respects, the licensee shall comply with the Liquor Control Act and the rules and regulations promulgated by the Illinois Liquor Control Commission Rule 100.430 (Ill. Admin. Code Title 11, Subtitle A, Ch. I, Pt. 100 et seq.)

**Section 2.**

Urbana City Code Chapter 14, "Licenses and Permits," Section 14-7, "Schedule of fees," subsection (A), "Liquor Licenses," Part 1, "Alcoholic Liquor Licenses," is hereby amended by adding a new Subpart "(Y)" thereto to state as follows:

(y) Class MB (microbrewery)

1. License..... \$ 2,837.00

**Section 3.**

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 4.**

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 5.**

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:

ABSENT:

ABSTAINED:

\_\_\_\_\_  
Phyllis D. Clark, City Clerk

**APPROVED BY THE MAYOR** this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Laurel Lunt Prussing, Mayor