

Request for City Council Action

Date: March 24, 2015

Agenda Section: General Business No. 6	Originating Department: City Clerk's Office
Item: Ordinance Amending Title Two Chapters Four and Five as it Relates to the Approval of Class F Licenses for Qualifying Not-for-Profit Organizations and Exempting from Public Possession Such Licenses No. 6.5	Approved:

Background:

Class F liquor licenses allow not-for-profit organizations to hold a temporary liquor license for an event not to exceed 48 hours. The current approval process for such a license requires that the application be reviewed by the Liquor Advisory Board and then by the Local Liquor Control Commission for each individual event. Depending on the timing of the submission of the application, this approval process may take between three to six weeks, which can be problematic if the organization wishes to have an impromptu event.

In 2013 Carbondale Main Street received five Class F licenses and the Southern Illinois Irish Festival received one license. In 2014, Carbondale Main Street received two Class F licenses. Historically, these two organizations are the only regular applicants for the license.

At the September 2014 meeting of the Liquor Advisory Board, the members of the Board unanimously approved the one-time approval to allow qualified organizations with at least a two-year history of successfully hosting such events to receive temporary liquor licenses for up to ten events within a given license year. The State of Illinois does require that each license spell out the exact address or provide a description of the location where the alcohol will be served, so individual licenses will be necessary.

Staff recommends that the application for these proposed multi-event licenses be treated as any other annual license, but that prior to each actual event, a notice be provided to the Local Liquor Control Chairman and the City Manager at least fifteen days prior to the event, which notice should include description and documentation sufficient to determine that dramshop insurance will be in effect, that the location will have fencing, parking and restroom facilities, that the primary beneficiary of any alcohol sales will be holder of the temporary license, and that the event will be in compliance with the Carbondale Revised Code. Within ten days of receipt of the notification and supplemental documentation, the Liquor Control Chairman will either approve or deny the issuance of a Class F license for the specified event.

Engineering Approval Obtained	Finance Approval Obtained	Legal Approval Obtained	Approval Obtained	Manager's Approval Obtained
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Council Action: Motion by _____ 2nd by _____ to _____

Often Class F licenses are held in a public setting where the sale or consumption of alcohol would otherwise be prohibited without the approval of a Fair Days request. When considering whether to approve a Fair Days request, the City Council reviews the location of the event, the delineation of the area where alcohol will be allowed, and the provision of sufficient waste receptacles and bathroom facilities. As these requirements are already considered during the liquor license approval process, Staff feels that a properly-licensed event should be included among the exemptions for public possession and consumption. The organization will still have the same responsibilities for controlling the premises where the event is being held. Fair Days approval will still be necessary for those public events where alcohol is present, but not sold by an organization holding a properly issued liquor license.

Recommended Action:

It is recommended that the City Council Approve an Ordinance Amending Title Two Chapters Four and Five as it Relates to the Approval of Class F Licenses for Qualifying Not-for-Profit Organizations and Exempting from Public Possession Such Licenses.

**CITY OF CARBONDALE, ILLINOIS
ORDINANCE NO. 2015 -**

**AN ORDINANCE AMENDING TITLE TWO CHAPTERS FOUR AND FIVE OF THE
CARBONDALE REVISED CODE AS IT RELATES TO THE APPROVAL OF CLASS F
LICENSES FOR QUALIFYING NOT-FOR-PROFIT ORGANIZATIONS AND
EXEMPTING FROM PUBLIC POSSESSION SUCH LICENSES**

**ADOPTED BY THE CITY COUNCIL
OF THE CITY OF CARBONDALE, ILLINOIS
THE 24TH DAY OF MARCH, 2015**

Published in pamphlet form by authority of the City Council of the City of Carbondale, Jackson County, Illinois, this 25th day of March, 2015.

CERTIFICATE OF PUBLICATION

I, Jennifer Sorrell, the duly qualified and acting City Clerk of the City of Carbondale, Illinois, and the official custodian of the records of said City, do hereby certify that this Ordinance was published in pamphlet form by authority of the City Council on the 25th day of March, 2015.

Jennifer Sorrell, City Clerk

ORDINANCE NO. 2015-

AN ORDINANCE AMENDING TITLE TWO CHAPTERS FOUR AND FIVE OF THE CARBONDALE REVISED CODE AS IT RELATES TO THE APPROVAL OF CLASS F LICENSES FOR QUALIFYING NOT-FOR-PROFIT ORGANIZATIONS AND EXEMPTING FROM PUBLIC POSSESSION SUCH LICENSES

WHEREAS, the City of Carbondale, Illinois is a home rule unit of local government under the Illinois Constitution, 1970, Article VII, Section 6; and

WHEREAS, pursuant to Article VII, Section 6(a), of the Illinois Constitution, 1970, the City of Carbondale may exercise any power and perform any function pertaining to its government and affairs including, but not limited to, the power to regulate for the protection of the public health, safety, morals and welfare; and

WHEREAS, the City Code of the City of Carbondale, Illinois, regulates the licensure and sale of alcoholic beverages within the City of Carbondale; and

WHEREAS, Title Two, Chapter Four, of the Carbondale Revised Code establishes the classifications of liquor licenses and sets the fees for each classification of license; and

WHEREAS, the City has determined that qualifying not-for-profit organizations may be approved for the issuance of up to ten (10) Class F licenses upon the approval by the Local Liquor Control Commission of an annual application for such licenses; and

WHEREAS, Title Two, Chapter Five, Section Five of the Carbondale Revised Code establishes under which circumstances and settings the public consumption of alcohol is prohibited; and

WHEREAS, the City Council of the City of Carbondale finds that it is in the best interest of the City of Carbondale to exempt from public possession restrictions those events for which an approved Class F1 or F2 licensed event has been issued, pursuant to the terms set out in the Liquor Code and those defined by the Local Liquor Control Chairperson upon issuing the individual licenses; and

WHEREAS, the City Council of the City of Carbondale finds that it is in the best interest of the City of Carbondale to amend Title Two, Chapters Four and Five, of the Carbondale Revised Code as set out in Exhibit “A,” attached hereto and made a part hereof.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CARBONDALE, ILLINOIS, AS FOLLOWS:

SECTION 1. That Title Two, Chapters Four and Five, of the Revised Code of the City of Carbondale is hereby amended as set out in Exhibit “A,” made a part hereof by reference.

SECTION 2. All of the remaining sections of Title Two of the Carbondale Revised Code shall remain in full force and effect.

SECTION 3. That all ordinances and parts thereof in conflict herewith are expressly repealed and are of no other force and effect.

SECTION 4. The repeal of any ordinance by this Ordinance shall not affect any rights accrued or liability incurred under said repealed ordinance to the effective date hereof. The provisions of this Ordinance, insofar as they are the same or substantially the same as those of any prior ordinance, shall be construed as a continuation of said prior ordinance.

SECTION 5. That it is the intention of the City Council of the City of Carbondale that this Ordinance and every provision thereof shall be considered separable and the invalidity of any section, clause, or provision of this Ordinance shall not affect the validity of any other portion of this Ordinance.

SECTION 6. That the City Council of the City of Carbondale finds that the subject matter of this ordinance pertains to the government and affairs of the City of Carbondale and is passed pursuant to the provisions of Article VII, Section 6(a) of the 1970 Illinois Constitution.

SECTION 7. That this Ordinance shall take effect upon its passage, approval, recording, and publication in pamphlet form in accordance with law.

APPROVED: _____
Donald D. Monty, Acting Mayor

ATTEST: _____
Jennifer Sorrell, City Clerk

APPROVED AS TO LEGALITY AND FORM:

P. Michael Kimmel, City Attorney

2-4-9: CLASSIFICATION:

F. Class F Licenses:

1. Class F1 licenses shall authorize the retail sale of beer and wine by civic, service, charitable, or other not for profit organizations incorporated or authorized to do business according to the laws of the state at a picnic, outing, festival or other such similar occasions, subject to the conditions of subsections F1a through F1h of this section, and to the terms, conditions, and restrictions of this and all other pertinent sections of this code.

a. The retail sale of beer and wine shall be by the drink only for consumption on the premises or within an area specifically designated in the application for the class F1 license.

b. A class F1 license shall be valid for a period not to exceed forty eight (48) hours as determined by the local liquor control commission.

c. An applicant for a class F1 license shall submit an application for such license in the manner provided by this chapter at least thirty (30) days prior to the date for which the license shall be used. The applicant must show evidence that dramshop liability insurance has been obtained for the period of the license.

d. The application for a class F1 license shall state in the application for such license the hours during which beer and wine are to be sold.

e. The applicant shall complete the appropriate application on a form approved by the local liquor control commission.

f. A class F1 license, if issued, shall not in any manner be regarded to relieve the licensee of complying with any other requirement of law.

g. A fee of one hundred dollars (\$100.00) shall be paid at the time the license is issued. Said fee may be waived at the discretion of the local liquor control commission for good cause shown.

h. A class F1 temporary liquor license will be issued at the discretion of the local liquor control commission.

2. Class F2 licenses shall authorize the retail sale of all alcoholic liquors by civic, service, charitable, or other not for profit organizations incorporated or authorized to do business according to the laws of the state, at a picnic, outing, festival or other such similar occasion, subject to the conditions of subsections F2a through F2g of this section, and to the terms, conditions and restrictions of this and all other pertinent sections of this code.

a. The retail sale of any alcoholic liquor shall be by the drink only for consumption on the premises or within an area specifically designated in the application for the class F2 license.

b. A class F2 license shall be valid for a period not to exceed forty eight (48) hours as determined by the local liquor control commission.

c. An applicant for a class F2 license shall submit an application for such license in the manner provided by this chapter at least thirty (30) days prior to the date for which the license shall be used. The applicant must show evidence that dramshop liability insurance has been obtained for the period of the license.

d. The application for a class F2 license shall state in the application for such license the hours during which all alcoholic liquor is to be sold.

e. The applicant shall complete the appropriate application on a form approved by the local liquor control commission.

f. A class F2 license, if issued, shall not in any manner be regarded to relieve the licensee of complying with any other requirement of law.

g. A fee of one hundred dollars (\$100.00) shall be paid at the time the license is issued. Said fee may be waived at the discretion of the local liquor control commission for good cause shown.

h. A class F2 temporary liquor license will be issued at the discretion of the local liquor control commission.

3. Qualifying not for profit organizations may submit an annual application to receive an approval of up to ten (10) Class F1 and/or F2 licenses per license year, subject to the following conditions of this section, and to the terms, conditions, and restrictions of this and all other pertinent sections of this Code.

a. In order to be considered a qualifying not for profit organization eligible to apply for the approval of up to ten (10) Class F1 and/or F2 licenses through the submission of an annual application for such license, the organization must have demonstrated, at minimum, a two-year history of holding either Class F1 and/or F2 liquor licensed events in a manner in keeping with the provisions of the City Code and without notable disruption to the community.

b. Those qualifying not for profit organizations who wish to receive annual approval of up to ten (10) temporary liquor licenses shall submit an application for an annual license in the manner provided by this chapter to the City Clerk's Office. Upon approval by the Local Liquor Control Commission of up to ten (10) F1 or F2 temporary liquor licenses, the organization must submit the license fee and provide notice at least fifteen (15) days prior to each individual event, which notice shall include sufficient description and documentation to determine the location of the event, that dramshop insurance will be in effect, that fencing, parking and restroom facilities will be provided, that the primary beneficiary of any alcohol sales will be the license holder, the hours during which alcohol will be sold, and that the event will be in compliance with all other aspects of the Carbondale Revised Code. Upon receipt of the fifteen-day notice, the City Clerk will disseminate the notice of the event to the Chairman of the Local Liquor Control Commission and the City Manager. The event details will be reviewed by City Staff and if it is determined that the event will be in full compliance, the individual Class F1 or F2 license will be issued at least ten (10) days prior to the event, with no more than ten (10) events to be issued through the annual application for license.

2-5-5: POSSESSION OR CONSUMPTION ON PUBLIC PROPERTY OR CONTROL PREMISES:

A. Prohibited: No person shall possess any open container of or consume alcoholic liquor upon any public property, public street, alley, sidewalk, public way, or parking lot and other areas adjacent to licensed premises that a licensee controls or is responsible for within the corporate limits of the city of Carbondale.

B. Exceptions: Exceptions are made for the following events:

1. In the event of a city fair, alcoholic liquor may be consumed during said fair from nonglass containers, in a publicly owned or controlled space, if such space is designated by resolution by the city council of the city as the space at which the city fair is to be conducted.

2. Events allowed in the city hall/civic center as otherwise provided in this title.

3. For events where such possession or consumption has been authorized pursuant to the approval of a Class F1 or F2 liquor license.

C. Removal From Premises: Except as provided in subsection 2-4-9A4 of this title, no licensee shall allow or permit any individual to transport or carry any alcoholic liquor out of the premises of the licensee. This section shall not apply to liquor licenses which allow for the sale of alcoholic liquor in the original package and with the seal unbroken, pursuant to chapter 4 of this title.

D. Penalties:

1. Any person, other than licensee, who violates any of the provisions of this section shall be punished by a fine of not less than fifty dollars (\$50.00) nor more than seven hundred fifty dollars (\$750.00).

2. Any licensee who violates any of the provisions of this section shall be punished by a fine of not less than two hundred fifty dollars (\$250.00) nor more than seven hundred fifty dollars (\$750.00) in addition to any penalties which may be imposed by the local liquor control commission as allowed pursuant to this title. (Ord. 2007-38)