

Request for City Council Action

Date: July 28, 2015

Agenda Section: General Business No. 6	Originating Department: Office of the City Manager
Item: Ordinance Amending Title Two (2) of the Carbondale Revised Code as it Pertains to Regulation of Operation During Halloween No. 6.1	Approved:

Background:

In 1994, the City Council imposed a series of mandated closures during the week of Halloween for all Class B liquor license holders located within the boundary area of Walnut Street to Grand Avenue and University Avenue to the Canadian National Railroad (CN) tracks. In addition, the City Council implemented a restriction on the possession of beer kegs during the same time period. This action was in response to the historical problems associated with the street parties.

In 2007 after a series of discussions by the City Council, the City Manager was directed to develop alternatives regarding the Halloween restrictions. Four alternatives were developed and the City Council voted in favor of maintaining the Halloween restrictions indefinitely while moving the north boundary line of the restrictions from West Walnut Street to West Elm Street. This allowed PK's Bar to remain open during Halloween. The justification was that street parties had not occurred in the area north of Elm Street for several years and PK's has a voluntary 21 year old entry requirement.

Several years have passed since street parties in the targeted area have occurred at the magnitude of previous years' Halloweens. During this same period, the number of Class B liquor license holders located within the targeted area has also decreased. Currently only three (3) bars are affected: Hangar 9, Styx Bar & Billiards and Sidetracks. At a Public Hearing on May 16, 2013, the Liquor Advisory Board (LAB) discussed a request from Sally Carter, owner of Hangar 9, asking that the current Halloween restrictions be lifted and that all bars be treated equally regardless of their location. At the July 16, 2013 City Council meeting, the City Manager presented four alternatives regarding the Halloween restrictions with the City Council voting in favor of allowing a one year trial suspension on the restrictions.

Halloween 2013 consisted of "unofficial Halloween" weekend (October 25-27) and Halloween week (October 31-November 3). The City prepared a plan of action which included having the police, fire and street maintenance departments available in the event it became necessary to intervene and disburse the crowds. Fortunately, the crowds of people expected never materialized, partly due to poor weather. Reports from the police and fire department revealed very few infractions occurred at the three bars on Illinois Avenue.

At the May 20, 2014, the Council again held a discussion on whether to maintain or suspend the enforcement of the Halloween restrictions for 2014. The result was the passage of a Resolution again suspending the enforcement of the restrictions.

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 _____

Halloween 2014 consisted of “unofficial Halloween” weekend (October 17-20) and Halloween week (October 27-November 3). Again the City prepared a plan of action which included having the police, fire and street maintenance departments available in the event it became necessary to intervene and disburse the crowds. Once again the crowds of people never materialized. Reports from the police and fire departments revealed fewer infractions than 2013 and fewer calls for service. In fact, the weekends associated with Halloween are really no different than other weekends.

Based on two years of successfully suspending the enforcement of restrictions and the result being very few incidents occurring compared to any other weekend activities in Carbondale, City staff believe is it time to rescind the Halloween restrictions entirely. City staff will continue to utilize any and all enforcement tools available to them as the need arises. In the unfortunate event the activities warrant the re-implementation of the restrictions, the City Council can always pass an Ordinance adopting the restrictions.

Recommended Action:

It is the recommendation of the City staff that the City Council Adopt an Ordinance rescinding all restrictions related to the closing of the Class B liquor license holders and the restrictions on the sale of kegs during the period of Halloween.

If the City Council desires to retain the Halloween restrictions, but suspend the enforcement of the restrictions for 2015, the City Council should adopt a Resolution suspending the enforcement.

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

**AN ORDINANCE AMENDING TITLE TWO (2) OF THE CARBONDALE REVISED
CODE AS IT PERTAINS TO REGULATION OF OPERATION DURING HALLOWEEN**

**ADOPTED BY THE CITY COUNCIL
OF THE CITY OF CARBONDALE, ILLINOIS
THE 28TH DAY OF JULY, 2015**

**Published in pamphlet form by authority of the City Council of the City of Carbondale,
Jackson County, Illinois, this 29th day of July, 2015.**

CERTIFICATE OF PUBLICATION

**I, Jennifer R. 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 29th day of July, 2015.**

Jennifer R. Sorrell, City Clerk

ORDINANCE NO. 2015-_____

AN ORDINANCE AMENDING TITLE TWO (2) OF THE CARBONDALE REVISED CODE AS IT PERTAINS TO REGULATION OF OPERATION DURING HALLOWEEN

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, Title 2 of the Carbondale Revised Code regulates alcoholic liquor in the City of Carbondale; and

WHEREAS, Title 2, Chapter 5 establishes the regulation of operation of retail sale of alcoholic liquors within the City of Carbondale; and

WHEREAS, Title 2, Chapter 4 outlines the application and licensing of alcoholic liquors within the City of Carbondale;

WHEREAS, the City Council of the City of Carbondale finds that it is in the best interest of the City of Carbondale to repeal Section 4.A4 of Title 2, Chapter 5 of the Carbondale Revised Code as it relates to hours of operation for establishments holding a Class B liquor license within the City of Carbondale; and

WHEREAS, the City Council of the City of Carbondale finds that it is in the best interest of the City of Carbondale to repeal Section 16.D of Title 2, Chapter 5 of the Carbondale Revised Code as it relates to the sale, transportation and possession of kegs of beer within the City of Carbondale; and

WHEREAS, the City Council of the City of Carbondale finds that it is in the best interest of the City of Carbondale to repeal Section 7.F of Title 2, Chapter 4 of the Carbondale Revised Code as it relates to payment of fees for a Class B liquor license within the City of Carbondale.

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

SECTION 1. That Title 2, Chapter 5, Sections 4.A4 and 16.D, and Title 2, Chapter 4, Section 7.F are hereby repealed.

SECTION 2. All of the remaining sections of Title 2 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: _____
John M. Henry, Mayor

ATTEST: _____
Jennifer R. Sorrell, City Clerk

APPROVED AS TO LEGALITY AND FORM:

P. Michael Kimmel, City Attorney

RESOLUTION NO. 2015-____

A RESOLUTION TO SUSPEND THE ENFORCEMENT OF TITLE TWO, CHAPTER FIVE, SECTION 4.A4 OF THE CARBONDALE REVISED CODE AS IT RELATES TO HALLOWEEN RESTRICTIONS IN LICENSE YEAR 2015-2016

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, Title Two (2) of the Carbondale Revised Code regulates Alcoholic Liquor in the City of Carbondale, Illinois; and

WHEREAS, Section 2-5-4.A 4 of the Carbondale Revised Code requires Class B liquor license establishments located in the boundary area of Elm Street to Grand Avenue and University Avenue to the Canadian National Railroad tracks to be closed during Halloween week hours; and

WHEREAS, the City Council of the City of Carbondale finds it in the best interest of the City of Carbondale to suspend enforcement of Section 2-5-4.A 4 as it relates to the closure of those Class B liquor licenses located within the boundary area of Elm Street to Grand Avenue and University Avenue to the Canadian National Railroad tracks for the establishments which desire to be open over the 2015 Halloween week; and

WHEREAS, Section 2-4-7.F of the Carbondale Revised Code grants the Class B license holders a reduced license fee of one hundred percent of the license fee, but in consideration for the suspension of the required closure, those Class B license holders which desire to be open should pay the full license fee for 2015-2016.

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

SECTION 1. That it is the best interest of the City of Carbondale to suspend enforcement of Section 2-5-4.A 4 as it relates to the closure of Class B liquor license establishments located within the boundary area of Elm Street to Grand Avenue and University Avenue to the Canadian National Railroad tracks for those Class B liquor licenses which desire to be open over the prescribed 2015 Halloween week.

SECTION 2. That in consideration for the suspension of the enforcement of the restrictions imposed by 2-5-4.A4 of the Carbondale Revised Code the holders of those Class B licenses which elect to remain open over the 2015 Halloween week and which are within the boundary area must submit payment of one hundred percent of the required license fee applicable for the 2015-2016 license year, in the same manner as all other Class B license holders. If any Class B liquor licenses within the said boundary choose to abide by all restrictions set out in Section 2-5-4, they shall notify the Carbondale City Clerk on or before September 1, 2015, and shall also be entitled to the reduced license fee as set out in Section 2-4-7 F.

SECTION 3. That the City Council of the City of Carbondale finds that the subject matter of this Resolution pertains to the government and affairs of the City of Carbondale and is

passed pursuant to authorities granted it by State statutes and the Home Rule powers of the City of Carbondale pursuant to the provisions of Article VII, Section 6(a) of the Illinois Constitution.

SECTION 4. That this Resolution shall take effect upon its passage, approval, recording, and publication in pamphlet form in accordance with law.

APPROVED: _____
John M. Henry, Mayor

ATTEST: _____
Jennifer R. Sorrell, City Clerk

APPROVED AS TO LEGALITY AND FORM:

P. Michael Kimmel, City Attorney