

Request for City Council Action

Date: September 1, 2015

Agenda Section: Consent Agenda No. 5	Originating Department: City Clerk's Office
Item: Ordinance Amending Title Two (2) of the Carbondale Revised Code as it Pertains to Transfers or Other Changes in Ownership for a Liquor-Licensed Establishment and Changes in Operation of a Liquor-Licensed Establishment No. 5.6	Approved:

Background:

At the meeting of August 11, 2015, the City Council considered amendments to Title Two as they relate to license transfers, changes in interest or ownership, and changes in the operation of licensed establishments. Through discussion of the proposed changes, the City Council and public submitted recommendations and suggestions to more clearly define the expectations of the liquor license holders and City staff. The attached ordinance reflects the recommendations presented during that meeting.

Below is a summary of the changes incorporated in the proposed Ordinance:

2-4-14 - Transfers of Licenses and 2-4-16 - Changes in Interest or Ownership

It is recommended that with the exception of the removal of an individual owner or member, any changes in ownership of 5% or more of a non-publicly traded corporation should be approved by the Local Liquor Control Commission. This would include those changes wherein the registered business retains ownership of a license, but officers or members are added or replaced.

2-4-17 - Changes in Operation

Changes in premises or operation following the approval of an initial or renewal application are required to be reported to both the Liquor Advisory Board and Local Liquor Control Commission. The amendment aims to differentiate those changes which will only require notification from those which will require approval. If a licensee is unsure as to whether proposed changes should be reported or if they require approval, a process has been outlined to provide a recommendation from City staff for such alterations. Illustrative examples of the changes which would require approval are included.

Recommended Action:

It is recommended that the City Council approve an Ordinance Amending Title Two (2) of the Carbondale Revised Code as it Pertains to Transfers of Licenses, Changes in Interest or Ownership, and Changes in Operation.

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 _____

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

**AN ORDINANCE AMENDING TITLE TWO (2) OF THE CARBONDALE REVISED
CODE AS IT PERTAINS TO LIQUOR LICENSE REQUIREMENTS**

**ADOPTED BY THE CITY COUNCIL
OF THE CITY OF CARBONDALE, ILLINOIS
THE 1ST DAY OF SEPTEMBER, 2015**

**Published in pamphlet form by authority of the City Council of the City of Carbondale,
Jackson County, Illinois, this 2nd day of September, 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 2nd day of September, 2015.**

Jennifer R. Sorrell, City Clerk

ORDINANCE NO. 2015-_____

AN ORDINANCE AMENDING TITLE TWO (2) OF THE CARBONDALE REVISED CODE AS IT PERTAINS TO LIQUOR LICENSE REQUIREMENTS

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 outlines the liquor license requirements for the retail sale of alcoholic liquors within the City of Carbondale; and

WHEREAS, Title 2, Chapter 4, Section 14 outlines the procedure for transferring a liquor license within the City of Carbondale; and

WHEREAS, Title 2, Chapter 4, Section 16 outlines the requirements for changes in interest or ownership of a licensed premises within the City of Carbondale; and

WHEREAS, Title 2, Chapter 4, Section 17 outlines the procedure for changes in operation of a 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 amend Sections 14, 16, and 17 of Title 2, Chapter 4 of the Carbondale Revised Code as it relates to changes in interest or ownership and changes in operation for a liquor license; and

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

SECTION 1. That Title 2, Chapter 4, Section 14 is hereby amended to read as follows:

2-4-14: TRANSFER OF LICENSE:

A. Not Transferable By Holder: A license shall be a purely personal privilege and shall not constitute property. Nothing in this title shall be construed to grant a right to transfer or accept the transfer of any license. Applicants for the transfer of an existing liquor license shall follow the same procedures as those for the issuance of a new liquor license as contained in this chapter.

B. Commission Discretion: Notwithstanding subsection A of this section, the local liquor control commission, upon receipt of completed transfer application and a transfer fee in the amount of one hundred dollars (\$100.00), may authorize the transfer of any license issued under this chapter.

C. Relocation Of Business: If the applicant seeks to transfer the license to a new location, the proposed location must comply with all rules, regulations, city ordinances and state statutes applicable to the operation and maintenance of a licensed premises.

D. New Ownership: The transfer of a license issued hereunder from one person to another may only be made in the case of a bona fide sale or transfer for valuable consideration of the business, and upon the determination by the local liquor control commission that the purchaser possesses the qualifications as required of an applicant for the original license.

E. In the event the licensee is a Non Publicly Traded corporation, limited liability company, or a partnership, any change in ownership of 5% or more of the licensed corporation, limited liability company, or partnership shall constitute a transfer of the license and shall require the applicant to follow the procedures for issuance of a new liquor license as contained in this chapter, consistent with the requirements of Section 2-4-16.A.

~~E.~~ F. Old License Returned To City: No transfer shall be effective and no new license shall be issued until the former license is submitted to the office of the city clerk and all monies due the city have been paid.

SECTION 2. That Title 2, Chapter 4, Section 16 is hereby amended to read as follows:

2-4-16: CHANGES IN INTEREST OR OWNERSHIP:

Changes in the interest or ownership of any licensed premises are subject to the following requirements:

A. Any changes in partners, officers, directors, persons holding directly or beneficially more than five percent (5%) of the stock or ownership interest, or managers of

establishments licensed under this title, shall be reported in writing to the Liquor Advisory Board and shall require the approval of the Local Liquor Control Commission ~~within ten (10) days of the change~~; provided, however, that changes in stock ownership need not be reported where the stock is publicly traded if the stock transfer is less than twenty five percent (25%) of the stock. All such persons shall meet all the requirements of this title and must otherwise qualify to hold a license. A change in ownership that is simply a reduction in the number of owners (e.g. from five (5) owners to four (4) owners) shall require notification to the City, but shall not require the Local Liquor Control Commission's approval.

B. When a license has been issued to a partnership and a change of ownership occurs resulting in a partnership interest by one who is not eligible to hold a liquor license, said license shall terminate effective on the date of said change.

C. When a license has been issued to a corporation or limited liability company and a change has taken place in the officers, directors, managers, members, or shareholders of more than five percent (5%) of the stock or ownership interest resulting in the holding of office or such shares by one who is not eligible for a license, said license shall terminate, effective on the date of said change. (Ord. 2007-38)

SECTION 3. That Title 2, Chapter 4, Section 17 is hereby amended to read as follows:

2-4-17: CHANGES IN OPERATION:

A license issued under the provisions of this title shall permit the sale of alcoholic liquor only within the licensed premises described in the application, the nature of business described in the application and as presented to the Liquor Advisory Board and Local Liquor Control Commission, and under the conditions imposed in this title on the particular class of license described therein. Any proposed change or alteration which varies in any manner from that on the date of the approval of the license shall be reported in writing to the Liquor Advisory Board and the Local Liquor Control Commission. Furthermore, a licensee may not materially or substantially alter the licensed premises or operations without first receiving approval by the Local Liquor Control Commission. Examples of such material or substantial changes which must be reviewed by the Local Liquor Control Commission include, but are not limited to:

Addition of entertainment to a licensed establishment including a dance floor, runway, platform, entertainment devices such as pool tables, video gaming, live music and/or performances, and amplified sound;

Elimination or substantial reduction of food service or food service hours for Class A licenses;

Any temporary or permanent change in the configuration of an establishment that would facilitate its ability to exceed its authorized occupancy;

Rental of liquor-licensed facilities to outside businesses, organizations, or promoters;

Interior or exterior structural modifications which would result in the change of occupancy or create, remove, or relocate doors and passages;

Changes in operation which would necessitate additional hiring, contracting, or utilizing security detail; and

Changes that may be or are contrary to the basic rights, restrictions, and nature of the license class under which a licensee operates.

~~Any change or alteration in the operation of the licensed premises which varies in any manner from that on the date of the issuance of the license shall be reported in writing to the liquor advisory board and the local liquor control commission within ten (10) days. Those changes which are not substantial or of a material nature do not require approval by the Local Liquor Control Commission. If a licensee requires clarification as to whether a proposed alteration requires approval or only notification, the licensee should submit an inquiry in writing to the City Clerk detailing the proposed changes. The City Clerk shall forward the inquiry to the appropriate City staff members, and the City Clerk shall provide a response within two weeks of receiving the inquiry. Failure to report any the proposed change in the premises or operations may result in a suspension or revocation of the license.~~

SECTION 4. All of the remaining sections of Title 2 of the Carbondale Revised Code shall remain in full force and effect.

SECTION 5. That all ordinances and parts thereof in conflict herewith are expressly repealed and are of no other force and effect.

SECTION 6. 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 7. 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 8. 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 9. 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