

Request for City Council Action

Date: September 1, 2015

Agenda Section: General Business No. 6	Originating Department: Legal
Item: Ordinance Amending Title Two of the Carbondale Revised Code as it Pertains to the Regulation of Happy Hours and Server Training No. 6.3	Approved:

Background:

Carbondale and the State of Illinois have prohibited Happy Hours for several years in an attempt to reduce the risk of intoxicated drivers on the road. In July of 2015, Governor Bruce Rauner signed Public Act 099-0046 into law and brought Happy Hours back to the State of Illinois. As a part of that legislation, the State also increased the required number of servers that must have server training through a certified Beverage Alcohol Sellers and Servers Education and Training (BASSET) program.

At the Liquor Advisory Board (LAB) meeting held on August 6th, three licensees were represented and discussed with the board the desire to bring Happy Hours back to Carbondale. The LAB recommended the adoption of the State law with the addition of the requirement that licensees notify the City of their Happy Hour times and prices. This change reduces the need for the City to have dedicated staff to enforce the requirements of posting the sale prices seven days prior to the sale, and allows the City to be able to monitor the number of Happy Hour days an establishment has, as the law limits them to four hours a day and no more than fifteen hours a week. By adopting the State law, the licensed liquor establishments will no longer be at a competitive disadvantage with restaurants and other licensed establishments outside the City of Carbondale, and will allow licensees to clearly understand what the law is concerning Happy Hour regulations.

The State law also allows for private parties which are defined as meal packages. City Staff has included language to require licensees who are offering these packages to notify the Carbondale Police Department of the date and time of the event and to provide a guest list so that the Police Department can arrange for necessary services.

The State also increased the number of servers required to be trained by a certified BASSET program. Carbondale City Ordinance requires fifty percent of the employees be BASSET trained, and under the new State law all servers are required to be trained. To be consistent with the State requirements, City Staff recommends that the Ordinance be changed to increase it to 100% of the employees being trained.

Recommended Action:

The City Council is requested to adopt an ordinance amending Title Two of the Carbondale Revised Code as it relates to Happy Hours and server training.

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 OF THE CARBONDALE REVISED CODE
AS IT PERTAINS TO THE REGULATION OF HAPPY HOURS AND SERVER
TRAINING**

**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 OF THE CARBONDALE REVISED CODE
AS IT PERTAINS TO THE REGULATION OF HAPPY HOURS AND SERVER
TRAINING**

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, under Title 2, Chapter 5, Section 13 prohibits happy hours within a licensed establishment; and

WHEREAS, Title 2, Chapter 5, Section 15, regulates minimum severer training within a licensed establishment; and

WHEREAS, from time to time when changes in State Law require the City to look at its current ordinances to determine if it is in the best interest of the City to amend their ordinances to allow businesses within the City to remain competitive with those business outside the City of Carbondale; and

WHEREAS, Illinois Public Act 099-0046 enacted several new rules concerning happy hours for liquor licensees and changed the required minimum training for servers within a liquor licensed establishment ; 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 2, Chapter 5, Section 13 of the Carbondale Revised

Code as it relates to happy hours, and to amend Title 2, Chapter 5, Section 15 as it relates to minimum server training requirements.

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

SECTION 1. That Title 2, Chapter 5, Section 13 of the Revised Code of the City of Carbondale is hereby amended as follows:

2-5-13: HAPPY HOUR PROHIBITED:

~~A. Price Schedules Required: All retail licensees shall maintain a schedule of the prices charged for all drinks of alcoholic liquor to be served and consumed on the licensed premises or in any room or part thereof. Whenever a hotel or multiuse establishment which holds a valid retailer's license operates on its premises more than one establishment at which drinks of alcoholic liquor are sold at retail, the hotel or multiuse establishment shall maintain at each such establishment a separate schedule of the prices charged for such drinks at that establishment. 235 ILCS 5/6-27.5, 28 and 28.5 are hereby adopted by reference as amended, except for such provisions as are specifically hereinafter deleted, modified or amended and except when the city code is more restrictive. In addition to the requirements of 235 ILCS 5/6-28, the licensee shall provide the same information concerning planned happy hours by either written or electronic communication to the Carbondale Police Department within the same time period provided in the state statute. If a licensee is offering a "Party Package," the licensee shall notify the Carbondale Police Department of the time and place of the event and provide a list of invited guest and the number of person expected to attend.~~

~~B. Certain Types Of Sales Or Promotions Prohibited: No retail licensee or employee or agent of such licensee shall:~~

- ~~1. Serve two (2) or more drinks of alcoholic liquor at one time to one person, except selling or delivering wine by the bottle or carafe;~~
- ~~2. Sell, offer to sell, or serve to any person an unlimited number of drinks of alcoholic liquor during any set period of time for a fixed price, except at private functions not open to the general public;~~
- ~~3. Sell, offer to sell, or serve any drink of alcoholic liquor to any person on any one date at a reduced price other than that charged other purchasers of drinks on that day where such reduced price is a promotion to encourage consumption of alcoholic liquor, except as authorized in subsection C7 of this section;~~

~~4. Increase the volume of alcoholic liquor contained in a drink, or the size of a drink of alcoholic liquor, without increasing proportionately the price regularly charged for the drink on that day;~~

~~5. Encourage or permit, on the licensed premises, any game or contest which involves drinking alcoholic liquor or the awarding of drinks of alcoholic liquor as prizes for such game or contest on the licensed premises; or~~

~~6. Advertise or promote in any way whether on or off the licensed premises, any of the practices prohibited under subsections B1 through B5 of this section.~~

~~C. Lawful Practices: Nothing in subsection B of this section shall be construed to prohibit a licensee from:~~

~~1. Offering free food or entertainment at any time;~~

~~2. Including drinks of alcoholic liquor as part of a meal package;~~

~~3. Including drinks of alcoholic liquor as part of a hotel package;~~

~~4. Negotiating drinks of alcoholic liquor as part of a contract between a hotel or multiuse establishment and another group for the holding of any function, meeting, convention, or trade show;~~

~~5. Providing room service to persons renting rooms at a hotel;~~

~~6. Selling pitchers (or the equivalent including, but not limited to, buckets), carafes, or bottles of alcoholic liquor which are customarily sold in such manner and delivered to two (2) or more persons at one time; or~~

~~7. Increasing prices of drinks of alcoholic liquor in lieu of, in whole or in part, a cover charge to offset the cost of special entertainment, not regularly scheduled.~~

~~D. B. Violation; Consequences: A violation of this section shall be grounds for fine, suspension, or revocation of the license as provided herein.~~

SECTION 2. That Title 2, Chapter 5, Section 15 of the Revised Code of the City of

Carbondale is hereby amended as follows:

2-5-15: EDUCATION FOR LICENSEES AND EMPLOYEES:

A. Proof Of Completion: All original or renewal applications for all classes of liquor licenses shall be accompanied with proof of completion of an Illinois liquor control commission (ILCC) approved beverage alcohol sellers and servers educational training (BASSET) program. Verification of training shall be in the form of an affidavit which

will be accompanied by a list of employees with specific certification information for each trained employee. (Ord. 2007-38)

B. Employee Education Required: All licensees and, ~~for liquor licenses other than class C2, not less than fifty percent (50%)~~ all of their employees who serve alcoholic beverages or otherwise come into contact with patrons of their establishment shall attend and complete an ILCC approved BASSET program. For class C2 licenses, all licensees and ~~not less than fifty percent (50%)~~ all of their employees who serve or distribute alcoholic beverages shall attend and complete an ILCC approved BASSET program. All sales of alcoholic beverages in C2 licensed establishments must be rung up at a register operated by a person of the age of twenty one (21) years or older, who has completed an ILCC approved BASSET program.

SECTION 3. All of the remaining sections of Title 2 of the Carbondale Revised Code shall remain in full force and effect.

SECTION 4. That all ordinances and parts thereof in conflict herewith are expressly repealed and are of no other force and effect.

SECTION 5. 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 6. 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 7. 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 8. 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